

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 1	CCRB Case #: 201108368	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/29/2011 12:30 AM	Location of Incident: § 87(2)(b)	Precinct: 07	18 Mo. SOL 12/29/2012	EO SOL 12/29/2012	
Date/Time CV Reported Wed, 06/29/2011 8:21 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/29/2011 8:21 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Mauro	05443	948091	007 PCT
2. POF Lauren Diaz	03460	941658	007 PCT
3. Officers			
4. SGT Mark Vazquez	02696	933447	007 PCT
5. POM Philip Chau	23362	941539	007 PCT
6. POM Hugh Barry	05409	946768	007 PCT
7. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gerald Mcdougall	00124	937060	007 PCT
2. POM Johnny Szeto	14931	940785	007 PCT
3. POF Kerion Mathison	07434	941070	007 PCT
4. POM Hyonjin Ha	14905	944629	007 PCT
5. POM Christophe Brinkley	08168	947719	007 PCT

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
6. POM Sandro Chiarlitti	03356	946858	007 PCT
7. POF Lesley Pierluisse	06062	947352	007 PCT

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A.SGT Mark Vazquez	Discourtesy: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez spoke rudely to § 87(2)(b) and individuals.	
B.SGT Mark Vazquez	Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used physical force against § 87(2)(b)	
C. Officers	Force: In front of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)	
D. Officers	Force: In front of § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with their asps.	
E.SGT Mark Vazquez	Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used pepper spray against § 87(2)(b)	
F. Officers	Discourtesy: In front of § 87(2)(b) in Manhattan, officers spoke rudely to individuals.	
G.POM Philip Chau	Discourtesy: In front of § 87(2)(b) in Manhattan, PO Philip Chau spoke rudely to § 87(2)(b)	
H.POM Philip Chau	Force: In front of § 87(2)(b) PO Philip Chau struck § 87(2)(b) with an asp.	
I. Officers	Abuse: In front of § 87(2)(b) in Manhattan, officers threatened to damage § 87(2)(b)'s property.	
J.POM Philip Chau	Abuse: In front of § 87(2)(b) PO Philip Chau threatened to damage § 87(2)(b)'s property.	
K.POF Lauren Diaz	Discourtesy: In front of § 87(2)(b) in Manhattan, PO Lauren Diaz spoke rudely to § 87(2)(b)	
L.POF Lauren Diaz	Force: In front of § 87(2)(b) in Manhattan, PO Lauren Diaz used physical force against § 87(2)(b)	
M.SGT Mark Vazquez	Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used physical force against § 87(2)(b)	
N.SGT Mark Vazquez	Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez struck § 87(2)(b) with an asp.	
O.POM Matthew Mauro	Force: In front of § 87(2)(b) in Manhattan, PO Matthew Mauro used physical force against § 87(2)(b)	
P.POM Matthew Mauro	Force: In front of § 87(2)(b) in Manhattan, PO Matthew Mauro struck § 87(2)(b) with an asp.	
Q.POM Hugh Barry	Force: In front of § 87(2)(b) in Manhattan, PO Hugh Barry used physical force against § 87(2)(b)	
R. Officers	Force: In front of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)	
S. Officers	Force: In front of § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with their asps.	
T. An officer	Force: In front of § 87(2)(b) in Manhattan, an officer struck § 87(2)(b) with his asp.	
U. Officers	Abuse: At the 7th Precinct stationhouse, officers threatened § 87(2)(b) with the use of force.	

### Case Summary

On June 29, 2011, the following complaint was filed with the Civilian Complaint Review Board (CCRB) by phone by § 87(2)(b) in regard to an incident she witnessed which occurred earlier that same day. Duplicate complaints were also filed via the CCRB's on-line website by § 87(2)(b) and § 87(2)(b) and § 87(2)(b) did not witness the incident. A duplicate complaint was also reported to the Internal Affairs Bureau (IAB), IAB log #11-29521, by Captain Michal Falcon of Patrol Borough Manhattan South on behalf of § 87(2)(b) and § 87(2)(b). All of the duplicate complaints have been incorporated in this case.

On June 29, 2011, § 87(2)(b) were having § 87(2)(b) party at § 87(2)(b) in Manhattan. At approximately 12:30 a.m., police responded to the location in response to a dispute outside the club and determined that the club was overcrowded beyond its capacity. The police closed the venue and as patrons exited the location, several people were arrested and the following allegations resulted from the police action:

**Allegation A - Discourtesy: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez spoke rudely to § 87(2)(b) and individuals.**

**Allegation F - Discourtesy: In front of § 87(2)(b) in Manhattan, officers spoke rudely to individuals.**

**Allegation G - Discourtesy: In front of § 87(2)(b) in Manhattan, PO Philip Chau spoke rudely to § 87(2)(b)**

**Allegation K: - Discourtesy: In front of § 87(2)(b) in Manhattan, PO Lauren Diaz spoke rudely to § 87(2)(b)**

§ 87(2)(g)

**Allegation B - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used physical force against § 87(2)(b)**

**Allegation C - Force: In front of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(g)

**Allegation D - Force: In front of § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with their asps.**

§ 87(2)(g)

**Allegation E - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used pepper spray against § 87(2)(b)**

§ 87(2)(g)

**Allegation H - Force: In front of § 87(2)(b) PO Philip Chau struck § 87(2)(b) with an asp.**

§ 87(2)(g)

**Allegation I - Abuse of Authority: In front of § 87(2)(b) in Manhattan, officers threatened to damage § 87(2)(b)'s property.**

§ 87(2)(g) § 87(2)(b)

**Allegation J - Abuse of Authority: In front of § 87(2)(b) PO Philip Chau threatened to damage § 87(2)(b)'s property.**

§ 87(2)(b), § 87(2)(g) § 87(2)(b)

**Allegation L - Force: In front of § 87(2)(b) in Manhattan, PO Lauren Diaz used physical force against § 87(2)(b).**

**Allegation M - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used physical force against § 87(2)(b).**

**Allegation O - Force: In front of § 87(2)(b) in Manhattan, PO Matthew Mauro used physical force against § 87(2)(b).**

**Allegation P - Force: In front of § 87(2)(b) in Manhattan, PO Matthew Mauro struck § 87(2)(b) with an asp.**

**Allegation Q - Force: In front of § 87(2)(b) in Manhattan, PO Hugh Barry used physical force against § 87(2)(b).**

**Allegation R - Force: In front of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b).**

**Allegation S - Force: In front of § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with their asps.**

§ 87(2)(g) § 87(2)(b)

**Allegation N - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez struck § 87(2)(b) with an asp.**

§ 87(2)(g) § 87(2)(b)

**Allegation T - Force: In front of § 87(2)(b) in Manhattan, an officer struck § 87(2)(b) with his asp.**

§ 87(2)(g) § 87(2)(b)

**Allegation U - Abuse of Authority: At the 7<sup>th</sup> Precinct stationhouse, officers threatened § 87(2)(b) with the use of force.**

§ 87(2)(g) § 87(2)(b)

Numerous print and broadcast media outlets including Fox 5 NY, NBC 4 NY, ABC 7 NY, Telemundo, NY 1, NY Post, and the NY Daily News covered the incident. Additionally, the wife and daughter of § 87(2)(b) § 87(2)(b) and § 87(2)(b) were victims in this case. Given this and the extensive media coverage, this case was added to the agency's sensitive case list on July 1, 2011.

## Results of Investigation

### Civilian Statements

**Victim:** § 87(2)(b)

- § 87(2)(b)

### Statements to Medical Personnel

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) § 87(2)(b) told medical personnel that he was pepper sprayed and beat up by police (encl. F 1-11).

### Arrest Photograph

§ 87(2)(b) was photographed by the NYPD on June 29, 2011 (encl. D 23). The photographs do not reveal any visible facial injuries.

### Statements to the Press

§ 87(2)(b) (encl. D 15a). § 87(2)(b) stated that on the date of incident as he was leaving the club, officers rushed the door. § 87(2)(b) put his hands up and officers grabbed him and threw him. He stated that the officers were using fists, gloves, and “billy clubs.” § 87(2)(b) stated that officers handcuffed him and continued to hit him and then “maced him.”

### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 16-22). On June 28, 2011, § 87(2)(b) was at the § 87(2)(b), located at § 87(2)(b) in Manhattan for § 87(2)(b) party for § 87(2)(b) who is produced by § 87(2)(b) (whose real name is § 87(2)(b)). The night was beautiful and there was a lot of peace and love in the building. § 87(2)(b) consumed about three Hennessy and cranberry juice alcoholic beverages, but did not consider himself intoxicated. § 87(2)(b) is § 87(2)(b). On June 29, 2011 just after midnight, while the show was going on, § 87(2)(b) observed two uniformed police officers enter the club, survey the area, and then leave the club. § 87(2)(b) learned after the event that the reason the police had initially responded to the club was because of a situation outside. § 87(2)(b) did not see this situation and did not have any other details on the matter.

Shortly after the officers exited the club, the show ended and people started exiting the club. The stage area is located right next to the main exit of the club. There is a small vestibule, about 6 feet wide, between the main body of the club and the outside. When people were leaving, § 87(2)(b) left the stage and was in the vestibule area, walking toward the outdoors. This area was full of civilians as everyone was trying to make their way out of the club. There were also multiple police officers standing in this area. § 87(2)(b) heard these officers stating, “Get the fuck out of here” as he tried to exit the club. The only officer that § 87(2)(b) could specifically describe that was using this language was Sgt. Vasquez, who he identified by name. § 87(2)(b) read Sgt. Vasquez’s name off of his uniform. Sgt. Vasquez was described as a 5’6”, Hispanic male in his 30s.

When § 87(2)(b) was in this area he saw officers grabbing people and pulling them outside of the club. § 87(2)(b) put his hands in the air and asked, “What are you doing this for?” An officer, who § 87(2)(b) could not recall, responded by saying, “Because you listen to Hip Hop.” § 87(2)(b) did not know if he cursed at the officers. A group of about ten officers approached, grabbed him, and proceeded to hit him. § 87(2)(b) described the officers as a “swarm” and could not specifically describe many of them. § 87(2)(b) did note that one of the officers was Sgt. Vasquez and stated that there was also a 5’5”, stocky, Asian male officer in his mid-20s.

The officers grabbed § 87(2)(b) by his arms and from behind. The officer that grabbed him from behind had his arm around § 87(2)(b)'s neck area. § 87(2)(b) had his hands up, so he thought the officers may have been trying to pull his hands down. This move did not obstruct § 87(2)(b)'s breathing. Sgt. Vasquez then proceeded to punch § 87(2)(b) in the face multiple times. § 87(2)(b) did not know where on his face he was punched or how many times he was struck. § 87(2)(b) also noted that other officers also punched him in the face, but he could not specify or describe these officers.

The officers pushed § 87(2)(b) against a wall in the vestibule and then proceeded to pull § 87(2)(b) outside. The officers then took § 87(2)(b) to the ground. In doing so, the officers struck him multiple times in the torso and throughout his body with batons and fists. § 87(2)(b) went face first onto the ground in front of the club. The officers then grabbed his hands and handcuffed him. § 87(2)(b) was not fighting with the officers but he was trying to cover his face and body against the blows with his hands to protect himself. After § 87(2)(b) was handcuffed, the officers stopped striking him. § 87(2)(b) could not tell who or how many officers were involved in striking him. § 87(2)(b) denied striking or attempting to strike any officers. § 87(2)(b) denied resisting arrest.

After § 87(2)(b) was handcuffed, Sgt. Vasquez approached § 87(2)(b) as he was on the ground. Sgt. Vasquez pulled § 87(2)(b)'s head back and pepper sprayed him in the eyes.

The officers then left § 87(2)(b) on the ground for a period of time and then transported him to the stationhouse. § 87(2)(b) sustained bruising and swelling to the right side of his face. The knee injury was caused when § 87(2)(b) landed on his knee when he was taken to the ground.

#### **Notice of Claim**

§ 87(2)(b) filed a Notice of Claim with the City of New York on September 26, 2011 (encl. G 57-65). § 87(2)(b) did not provide a substantive statement in the Notice of Claim.

#### **Victim:** § 87(2)(b)

- § 87(2)(b)

#### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 26-28). On the incident date, § 87(2)(b) was exiting the club with her daughter, § 87(2)(b) and § 87(2)(b). Directly outside the club, there was a large group of police officers telling people leaving the club to “move the fuck out of the way.” An individual that § 87(2)(b) knew as § 87(2)(b) was on the ground being beaten by police officers. § 87(2)(b) was motionless on the ground. § 87(2)(b) could not describe any of the officers specifically, but stated that she just saw a lot of swinging at § 87(2)(b) who was motionless on the ground, with fists and batons.

An Asian police officer, who § 87(2)(b) identified by name as PO Chau, approached § 87(2)(b) and said, “Get the fuck off the block. Move the fuck back.” PO Chau was described as a 5’5”, 180 lbs., uniformed, Asian male officer with black hair. § 87(2)(b) was trying to leave the area and she did not know why PO Chau approached her. PO Chau pushed § 87(2)(b) using two hands extended from his chest, to the opposite side of the street. § 87(2)(b) told PO Chau, “Don’t touch my mother.” § 87(2)(b) stepped in between § 87(2)(b) and PO Chau. PO Chau then took both § 87(2)(b) and § 87(2)(b) to the ground. § 87(2)(b) fell on top of § 87(2)(b) between the street and a parked vehicle.

PO Chau was hitting § 87(2)(b) and trying to put her in handcuffs. § 87(2)(b) had her back to § 87(2)(b) on the ground and was facing PO Chau. PO Chau was punching § 87(2)(b) with one hand and struggling to get her in handcuffs with the other hand. § 87(2)(b) saw the punching motion, but could not see where § 87(2)(b) was being hit. § 87(2)(b) was holding onto § 87(2)(b) and screaming. PO Chau was trying to grab one of § 87(2)(b)'s arms, but PO Chau could not get the arm to handcuff it because of the manner in which § 87(2)(b) was holding § 87(2)(b).

Several police officers then huddled around § 87(2)(b) and § 87(2)(b) including a white male uniformed police officer with red hair in a pony-tail and a white female uniformed officer. The white male officer helped § 87(2)(b) and § 87(2)(b) to their feet. PO Chau pushed § 87(2)(b) face first against a nearby vehicle and was able to get her into handcuffs.

Officers told § 87(2)(b) to get off the block, so she left the area and was not arrested. During the struggle, § 87(2)(b) heard § 87(2)(b) screaming and later learned that he was arrested, but she did not witness the events surrounding this arrest. Throughout the night, § 87(2)(b) heard many officers use the word “fuck,” but she could not articulate which officers used this language or the manner in which it was used.

**Victim:** § 87(2)(b)

- § 87(2)(b)

**Arrest Photograph**

§ 87(2)(b) was photographed by the NYPD on June 29, 2011 (encl. D 35). The photographs do not reveal any visible facial injuries.

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 29-34). On the incident date, as § 87(2)(b) was leaving the club with § 87(2)(b) she observed police officers grab § 87(2)(b) and pull him out of the club. § 87(2)(b) stated that § 87(2)(b) had his hands behind his back and that officers were hitting him, but she acknowledged that she was not wearing her glasses, so she could not clearly see how § 87(2)(b) was being struck, nor could she describe any of the officers. § 87(2)(b) could only see the motions of uniformed officers hitting § 87(2)(b). § 87(2)(b) also added that she had one cranberry and vodka to drink during the event and was not intoxicated.

§ 87(2)(b) crossed the street and began to ask an officer a question, who was described as a uniformed 5’7”, medium built, Asian male officer and has been identified by the investigation as PO Chau. § 87(2)(b) did not know what specifically she was asking, but assumed it was about § 87(2)(b). PO Chau then shoved § 87(2)(b) backward, using two hands forward from the chest, and she fell onto the ground between a parked car and a pile of garbage. § 87(2)(b) stepped in between § 87(2)(b) and PO Chau.

PO Chau then pushed § 87(2)(b) and she fell on top of § 87(2)(b). § 87(2)(b) was then struck in the face by a baton. § 87(2)(b) brought her arms up to cover her face. § 87(2)(b) was struck several times in the upper torso and forearms. § 87(2)(b) could not see who was hitting her or with what because she had her arms covering her face, but she assumed it was PO Chau because he was the closest officer. § 87(2)(b) was on § 87(2)(b) and was moving her body in an effort to protect her mother from being struck by the officers. As she moved her body and covered her face, the strikes from PO Chau became stronger.

Another individual, who § 87(2)(b) identified as § 87(2)(b) was also arrested nearby. § 87(2)(b) saw § 87(2)(b) with a camera and when PO Chau struck her with a baton, § 87(2)(b) tried to get in between her and PO Chau to “take some of the blows.” § 87(2)(b) was pulled away and § 87(2)(b) could hear him, stating not to hit the women. § 87(2)(b) was not however able to see how § 87(2)(b) was arrested or struck by officers.

There was a short, white, female officer with dirty blonde hair and glasses nearby that told § 87(2)(b) that if she stopped moving it would be over quick. § 87(2)(b) did so and was lifted up off the ground, pushed against a nearby car, and handcuffed by an officer. § 87(2)(b) got up off the ground and officers told her to move back. § 87(2)(b) complied and she was not arrested.

After § 87(2)(b) was arrested she was told to stand with § 87(2)(b) in handcuffs. When she stood up, she was able to see a person who she identified by name as § 87(2)(b) § 87(2)(b) was motionless on the ground and was surrounded by a group of police officers who were hitting him and kicking him. § 87(2)(b) could not describe any of these officers, but stated that they were uniformed. Because of the large group of officers and the distance, § 87(2)(b) could not clearly see what was happening. EMS did eventually arrive and take § 87(2)(b) away in an ambulance.

§ 87(2)(b) and § 87(2)(b) were taken to a police vehicle and transported to the stationhouse. § 87(2)(b) sustained bruising to the lower parts of both her arms as a result of the incident. The bruises were circular, so § 87(2)(b) thought they were from being struck with an asp. § 87(2)(b) also had bruising to her wrists from the handcuffs. § 87(2)(b) had no marks on her face, stating that she was only hit lightly in the face with the baton.

### **Notice of Claim**

§ 87(2)(b) filed a Notice of Claim with the City of New York on September 26, 2011 (encl. G 57-65). § 87(2)(b) did not provide a substantive statement in the Notice of Claim.

### **Victim:** § 87(2)(b)

- § 87(2)(b)

### **Arrest Photograph**

§ 87(2)(b) was photographed by the NYPD on June 29, 2011 (encl. D 41). The photographs do not reveal any visible facial injuries.

### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 36-40). § 87(2)(b) was hired by § 87(2)(b) to be § 87(2)(b). § 87(2)(b) arrived at the event at about 10:00 PM on June 28, 2011 and § 87(2)(b). § 87(2)(b) as § 87(2)(b), was not permitted to consume any alcohol, so he drank soda for the entire evening.

When the performance was concluded, § 87(2)(b) was filming § 87(2)(b) shaking hands with the other performers. The club lights were on and people were exiting the club. § 87(2)(b) then observed police officers pushing people out of the club. There were three uniformed male police officers who § 87(2)(b) could not describe any further, pushing patrons outside of the club stating, “Everybody out. Move. Get the fuck out.” § 87(2)(b) asked § 87(2)(b) for freedom to record the interaction with the police, he agreed, so § 87(2)(b) got off the stage and exited the club.

§ 87(2)(b) observed an individual, who he identified by name as § 87(2)(b) on the ground right in front of the club. There were about three to five police officers hitting § 87(2)(b) with batons. They were punching, kicking, and stomping him. § 87(2)(b) could not say how many times § 87(2)(b) was hit or where § 87(2)(b) was struck, but stated that he was hit all over his body including his arms, legs, back, and head. This occurred right outside the club, so there were many individuals leaving the club who witnessed what was happening.



§ 87(2)(b) was approached by an officer, PO1, that pushed him, and said, “Put your camera down before I smash it.” § 87(2)(b) described PO1 only as a thin Hispanic or white male officer. § 87(2)(b) would not be able to recognize PO1 from photographs. § 87(2)(b) walked around a nearby vehicle to get away from that police officer. § 87(2)(b) continued to record and tried to focus on the incident from a different angle. About three other officers that he could not identify or describe, told § 87(2)(b) to leave and stop recording or they will break the camera. § 87(2)(b) told the officers that he had a right to be recording the event. One of these officers, which § 87(2)(b) described as a uniformed Asian male officer pushed § 87(2)(b)'s camera. § 87(2)(b) knew this officer's name to be PO Chau. PO Chau pushed the lens of § 87(2)(b)'s camera, so § 87(2)(b) yelled at him and asked for his badge number. However, two other male officers, who § 87(2)(b) could not see, grabbed him from behind and pushed him against a vehicle. § 87(2)(b) asked what he was being arrested for and the officers said because he was filming. § 87(2)(b) did not resist and was immediately handcuffed. § 87(2)(b) held onto his camera as he was handcuffed

Two other people, who § 87(2)(b) identified by name as § 87(2)(b) and § 87(2)(b) approached § 87(2)(b) and asked what was happening. § 87(2)(b) told them that he was being arrested for filming. § 87(2)(b) then heard an unidentified officer who he could not see say, “Shut the fuck up.”

PO Chau grabbed § 87(2)(b) and pushed her to the ground. § 87(2)(b) who is § 87(2)(b)'s daughter, starting yelling, “what are you doing to my mommy, she didn't do anything wrong.” PO Chau shoved § 87(2)(b) onto the ground and she landed on § 87(2)(b). PO Chau then proceeded to kick and hit both females with closed fists. There was another officer with PO Chau, but § 87(2)(b) could not describe this officer.

§ 87(2)(b) yelled that officers were hitting females. Another individual, who § 87(2)(b) knows only as § 87(2)(b) took the camera from § 87(2)(b) which he was still holding behind his back while he was handcuffed. § 87(2)(b) put himself between § 87(2)(b) and § 87(2)(b) and PO Chau to protect § 87(2)(b) and § 87(2)(b) from “the blows.” § 87(2)(b) was being punched on the back and face while he had the handcuffs on. § 87(2)(b) did not know who was punching him.

An officer grabbed § 87(2)(b) by the handcuffs and back of the neck and pushed him against a vehicle. PO Chau and other officers then handcuffed § 87(2)(b).

§ 87(2)(b) then saw another fight between § 87(2)(b) his girlfriend, who was identified by the investigation as § 87(2)(b) and an officer start. About ten uniformed officers, none of which § 87(2)(b) could describe, ran toward the fight. § 87(2)(b) was too far away to see what specifically was happening.

§ 87(2)(b) was placed in a police vehicle and taken to the 7<sup>th</sup> Precinct stationhouse. § 87(2)(b) was placed inside the cell with his handcuffs on. § 87(2)(b) heard officers stating to each other, “Did you fuck them up. I should have come in earlier. Did you smash cameras? Did you smash cell phones? We have to make sure no one is walking around with any footage.”

At various times throughout the night as other officers came on shift, officers walked inside the cell room and said, “You guys are fucking lucky. If I was working I would have beat the shit out of you.” There were several officers that did this and § 87(2)(b) could only describe them as chubby, stocky, Hispanic males in plainclothes.

Both § 87(2)(b) and § 87(2)(b) were in the female cell, which was located directly next to the cell where § 87(2)(b) was located. § 87(2)(b) could not see into this cell, but could hear § 87(2)(b) and § 87(2)(b). § 87(2)(b) had her period and did not have any tampons. § 87(2)(b) started to scream for other officers. Two officers entered the cell area and § 87(2)(b) told them what happened. The officers said out loud, “Let the bitch bleed out.” § 87(2)(b) could only describe these officers as tall, white, uniformed, male officers. § 87(2)(b) could not provide any further description of these officers. After they made the comment, they left the cell area. § 87(2)(b) continued to yell until a female officer came in, took § 87(2)(b) and allowed her to use the bathroom.

The camera that § 87(2)(b) had at the time of the incident along with the footage was given to § 87(2)(b) who returned it to § 87(2)(b)

**Victim:** § 87(2)(b)

- § 87(2)(b)

**Arrest Photograph**

§ 87(2)(b) was photographed by the NYPD on June 29, 2011 (encl. D 50). § 87(2)(b) has abrasions to his forehead and left cheek, just below his left eye. § 87(2)(b)'s lower lip is swollen and he is wearing a c-collar neck brace.

**Statements To Medical Personnel**

§ 87(2)(b) told medical personnel at § 87(2)(b) on § 87(2)(b) that he was assaulted by police officers using batons, feet, and fists (encl. F 12-113).

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 42-44). On the incident date, as § 87(2)(b) and his girlfriend, § 87(2)(b) were exiting the club, he observed an individual, identified by the investigation as § 87(2)(b) laying on the ground outside the club in handcuffs. There were several officers around § 87(2)(b) and § 87(2)(b) smelled pepper spray in the air, but he got out of the area quick and did not see what the officers were doing around § 87(2)(b). § 87(2)(b) did consume alcohol while inside of the club, but stated that his alcohol consumption was limited to one and a half whiskey sours and that he was not intoxicated.

§ 87(2)(b) crossed the street in front of the club and made a call on his cellular phone. A female officer who has been identified by the investigation as PO Lauren Diaz, approached § 87(2)(b) and pushed him from behind with one hand. Since § 87(2)(b) was on his phone, he did not even notice the officer until she pushed him. § 87(2)(b) did not know what caused the officer to single him out, but stated that she was likely trying to get him off the block. PO Diaz was described as a uniformed, 5'2", petite, Hispanic female with black hair. § 87(2)(b) turned around to face PO Diaz and stated, "What is your problem I'm leaving." PO Diaz said "Get the fuck out of my face." § 87(2)(b) turned around to walk away, but a nearby officer, who was identified by the investigation as Sgt. Vasquez, said "Arrest that motherfucker." Sgt. Vasquez was described as a uniformed, 5'7", light skinned Hispanic or white male, with black hair.

Sgt. Vasquez then proceeded to punch § 87(2)(b) in the face. Other officers also approached § 87(2)(b) and began to kick him and strike him with batons. § 87(2)(b) could not describe the hitting or note who hit him with what, but stated that he was trying to block his body from being struck by swinging his arms in the air. § 87(2)(b) grabbed § 87(2)(b) who was standing nearby, and pushed her out of the way so she would not get hit. § 87(2)(b) then blacked out. § 87(2)(b) could not explain why he blacked out.

The next thing that § 87(2)(b) remembered was being on the ground with blood dripping in his face. There were officers holding § 87(2)(b)'s hands behind his back, placing him in handcuffs. § 87(2)(b) was then kicked in the face two or three times, in the area between his mouth and his nose by an unidentified officer. § 87(2)(b) looked up and was able to see this officer and describe him as a light skinned white or Hispanic male officer. § 87(2)(b) could not describe this officer any further.

After § 87(2)(b) was in handcuffs, he was transported to § 87(2)(b) by EMS. § 87(2)(b) did not see § 87(2)(b) get arrested. § 87(2)(b) had two lacerations to his head in which staples were needed to mend. One was on the top center portion of his head and the other was on the left front part of his head. § 87(2)(b) believed that these lacerations were caused by a baton, but he did not remember the blows that caused these injuries. § 87(2)(b) had a gauged earring that was also ripped out. § 87(2)(b) had an injury to the back of his neck and head, which requires him to wear a neck brace for support. § 87(2)(b) had x-rays and an MRI done and has to go back to the hospital at a later date for the results.

### **Notice of Claim**

§ 87(2)(b) filed a Notice of Claim with the City of New York on September 26, 2011 (encl. G 57-65). § 87(2)(b) did not provide a substantive statement in the Notice of Claim.

### **Witness:** § 87(2)(b)

- § 87(2)(b)

### **Arrest Photograph**

§ 87(2)(b) was photographed by the NYPD on June 29, 2011 (encl. D 66). The photographs do not reveal any visible facial injuries.

### **Statements To Medical Personnel**

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (encl. F 114-133). § 87(2)(b) told medical personnel that she was assaulted by police officers leaving a concert several nights prior. § 87(2)(b) stated that she was pushed and her hair was pulled.

### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 15, 2011 (encl. D 60-65). On the incident, as they departed the club, § 87(2)(b) and her boyfriend, § 87(2)(b) observed an individual, who she identified by name as § 87(2)(b) on the ground in handcuffs. § 87(2)(b) could also smell pepper spray in the area and § 87(2)(b) appeared to have pepper spray in his eyes. § 87(2)(b) did not see who discharged the pepper spray. There were about five uniformed officers standing around § 87(2)(b) but nothing was happening at the time. § 87(2)(b) took out her cellular phone and started recording what was happening. § 87(2)(b) crossed the street and saw that there was a group of about 10 officers surrounding another individual. § 87(2)(b) approached and started recording the incident. § 87(2)(b) could not clearly see what was happening from where she was, but did see an officer in a blue uniform swinging a baton in a downward motion. As a result, § 87(2)(b) assumed that he was striking someone. § 87(2)(b) did not know who was being struck and could not describe the person. § 87(2)(b) then grabbed § 87(2)(b) and pulled her away, telling her not to get involved. § 87(2)(b) stated that she did consume about one beer earlier in the evening, but was not intoxicated.

After walking about two feet away, § 87(2)(b) and § 87(2)(b) encountered a female officer who was identified by the investigation as PO Diaz. PO Diaz told § 87(2)(b) and § 87(2)(b) to leave the location and pushed both of them from behind, shoving them along. § 87(2)(b) then turned around and told PO Diaz not to push, stating that they were leaving the location. PO Diaz said “get the fuck out of my face.” PO Diaz pushed § 87(2)(b) and he stumbled into another officer, who was identified by the investigation as Sgt. Vasquez. Sgt. Vasquez punched § 87(2)(b) in the face. Other nearby officers immediately surrounded § 87(2)(b). Other officers then pulled § 87(2)(b) away from what was happening, so § 87(2)(b) could not see what happened with § 87(2)(b).

§ 87(2)(b) was trying to get to § 87(2)(b) to stop the fight, but officers grabbed § 87(2)(b) and pushed her face first up against a store gate. The officers then took her face first to the ground and placed her in handcuffs. § 87(2)(b) could not describe the force that was used against her, stating that everything happened very quickly. § 87(2)(b) did note that at some point she felt her hair get pulled. § 87(2)(b) received scrapes to her legs from being taken to the ground. In this process, § 87(2)(b) dropped her phone that she was using to record the incident.

Once arrested, officers took § 87(2)(b) to a marked police van which transported her to the 7<sup>th</sup> Precinct stationhouse. When § 87(2)(b) was being moved, she saw § 87(2)(b) on the ground, bleeding from his head. § 87(2)(b) did not see anything else that happened to § 87(2)(b)'s phone was returned to her later at the stationhouse, but the video was erased.

**Victim:** § 87(2)(b)

- § 87(2)(b)

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 19, 2011 (encl. D 67-71). On the incident date, § 87(2)(b) § 87(2)(b) exited the club and observed a line of uniformed police officers standing directly in front of the club. § 87(2)(b) had two alcoholic drinks that evening, but was not intoxicated. § 87(2)(b) left the area and walked to a corner store on another block and purchased a drink. When § 87(2)(b) exited the store, he heard a great deal of noise coming from the area of the club so he returned as he was concerned about family and friends who were still at the club.

When § 87(2)(b) returned to the area, he saw many police officers and civilians in the streets yelling at each other. Someone that § 87(2)(b) knew told him that officers had beat up § 87(2)(b) § 87(2)(b) did not see this occur, but did see § 87(2)(b) in handcuffs on the ground in front of the club. § 87(2)(b)'s attention was drawn to police officers pushing a female, who was identified by the investigation as § 87(2)(b) into a car and placing her in handcuffs. The female was face first against the vehicle and was turning her head backwards to yell at the officers, screaming about her mother. § 87(2)(b) did not see what lead up to this interaction.

§ 87(2)(b) then saw an incident break out involving an individual identified by the investigation as § 87(2)(b) § 87(2)(b) did not know how the situation started, but he heard yelling and his attention was drawn to the incident. § 87(2)(b) saw several officers encircle § 87(2)(b) and start hitting § 87(2)(b) § 87(2)(b) fought back against the officers, defending himself, until an officer struck § 87(2)(b) in the face with a baton. § 87(2)(b) fell onto a car and disappeared into the crowd of officers surrounding him. § 87(2)(b) could not describe any of the officers involved in the incident.

§ 87(2)(b) then saw a friend of his, § 87(2)(b) exit the club. § 87(2)(b) approached § 87(2)(b) and tried to get him off of the block because he did not know what was happening. Three officers came down the sidewalk toward § 87(2)(b) including PO1, a 6'1", muscular and tan, white male police officer in his early 30s and PO2, a short, chubby, blonde hair officer in his 20s. § 87(2)(b) did not remember what the third officer looked like. PO1 pushed § 87(2)(b) from behind and said "Get the fuck out of here." § 87(2)(b) said that he was trying to move everyone, but PO1 said that he was not moving people fast enough. PO1 pushed § 87(2)(b) a second time and he fell into a car. Several other officers, none of whom § 87(2)(b) could describe, also started pushing § 87(2)(b) § 87(2)(b) was pushed into the street and then into another car. § 87(2)(b) described the experience as being pushed around like a rag doll.

PO2 then took his baton and hit § 87(2)(b) in the leg with his baton. PO2 hit § 87(2)(b) about three times in the leg and one of § 87(2)(b)'s friends stood in between § 87(2)(b) and PO2 and pulled § 87(2)(b) away from the situation. PO2 did not pursue § 87(2)(b) any further. § 87(2)(b) indicated that there is video footage of the officers pushing and hitting him with a baton.

§ 87(2)(b) and his friend then departed the location. Throughout the incident, § 87(2)(b) heard many officers stating "Get the fuck off the block." One officer that § 87(2)(b) recalled making this statement was an Asian male officer, but § 87(2)(b) could not remember specific incidents when the work "fuck" was used.

**Complainant/Witnesses:** § 87(2)(b) and § 87(2)(b)

- § 87(2)(b)
- § 87(2)(b)

**CCRB Statements**

§ 87(2)(b) was interviewed at the CCRB on July 12, 2011 and § 87(2)(b) was interviewed at the CCRB on July 6, 2011 (encl. D 72-76, 77-80). On the incident date, § 87(2)(b) and § 87(2)(b) were together inside of the § 87(2)(b). When everyone was exiting the club, officers entered and stood on both sides of the main exit as patrons left the club. The officers were pushing people as they exited in what appeared to be an attempt to get them to exit the club faster. § 87(2)(b) also heard officers cursing, stating, “Get the fuck out of the club.” § 87(2)(b) could not tell which officers were making these comments or who specifically they were made to.

§ 87(2)(b) observed one of the people exiting the club, who has been identified by the investigation as § 87(2)(b). § 87(2)(b) tell the officers, “You don’t have to push me I’m walking out.” § 87(2)(b) then saw an officer hit § 87(2)(b). § 87(2)(b) went to the ground and was dragged outside of the club. § 87(2)(b) then saw, as she was standing inside of the club, several police officers striking § 87(2)(b) outside of the club on his body with batons. Given the large crowd and the commotion, § 87(2)(b) was unable to describe the specific officers involved in this action. From where § 87(2)(b) was standing, she could not see what § 87(2)(b) was doing as he was being struck by the officers. § 87(2)(b) did not see this interaction. Instead, she observed officers approaching § 87(2)(b) for a reason she did not know or observe. The officers pulled § 87(2)(b) to the ground and took him out of the club. § 87(2)(b) did not witness any further interaction between § 87(2)(b) and the officers do to her location in the club.

§ 87(2)(b) then felt pepper spray in the air. § 87(2)(b) did not see which officer discharged the pepper spray and did not know who it was intended for, but returned to the interior of the club because she could not breathe.

§ 87(2)(b) and § 87(2)(b) returned to the inside of the club and remained there for a short period of time because they did not want to be involved with what was happening outside. Once they were told by a club employee that they could leave the club, they exited the front and quickly departed the location. § 87(2)(b) described a huge police presence, but did not stop to witness any further police activity. § 87(2)(b) was on the ground in front of the club, but neither § 87(2)(b) nor § 87(2)(b) could not see what was happening with him. § 87(2)(b) stated that she heard police officers cursing, stating “get the fuck back,” but she could not describe any of the officers or who this comment was made to since she was quickly trying to get away from the location.

**Witness: CARSINE NGBESSO**

- Ms. Ngbesso is a § 87(2)(b)
- Ms. Ngbesso is a PAA for the NYPD and is assigned to the 20th Precinct. On the date of incident, Ms. Ngbesso was working as the cell attendant at the 7th Precinct stationhouse.

**CCRB Statement**

On July 31, 2012, Ms. Ngbesso was interviewed at the CCRB (encl. D 81-83). Ms. Ngbesso had no recollection of the incident. Ms. Ngbesso reviewed the 7th Precinct roll call and confirmed that she was working as the cell attendant in the 7th Precinct stationhouse during tour 1 on June 29, 2011. Ms. Ngbesso viewed photographs of § 87(2)(b) and § 87(2)(b) and did not recall interacting with them. Ms. Ngbesso was also shown the holding pen roster, listing the aforementioned individuals and she still could not remember them. Ms. Ngbesso was given a summary of the incident and what had occurred, but this did not assist her recollection. Ms. Ngbesso did not remember any officers cursing at people in the cells, telling them that they would smash their cell phones, or telling anyone with their menstrual cycle, “Bitch bleed out.”

Ms. Ngbesso described the cell area and drew a diagram (encl. D 83). She stated that normally, males and females are kept separate with males inside of the holding pen and the females inside of individual cells. The individual cells are located in a separate room, but she did note that if there are many prisoners on a given date, they can place male prisoners inside of the individual cells. Ms. Ngbesso's desk is located in the same room as the holding pen, where male prisoners are generally held.

**Witness:** § 87(2)(b)

- § 87(2)(b)

On June 25, 2012, § 87(2)(b) was contacted by phone and provided the following information (encl. D 84). On the incident, date, § 87(2)(b) confirmed that he was arrested and placed in the holding cells inside the 7<sup>th</sup> Precinct stationhouse. § 87(2)(b) was only inside the cell for about thirty minutes to an hour. § 87(2)(b) stated that he was in the men's cells and he could not see the female's cells from where he was located. § 87(2)(b) remembers about one or two other males in the cells with him, but he did not recall having any interaction with them. § 87(2)(b) did not remember any officers coming back to the cells and threatening anyone in the cells or cursing at anyone in the cells. When asked if he was intoxicated, § 87(2)(b) refused to answer the question.

#### **Attempts to Contact Witnesses**

On the date of incident, there was a § 87(2)(b) who may have witnessed some of the allegations. § 87(2)(b) was contacted by phone and agreed to provide the CCRB with the club video footage and information to contact and interview § 87(2)(b). On August 26, 2011, the undersigned visited the § 87(2)(b) and obtained the video footage; however, § 87(2)(b) refused to provide the CCRB with the name or contact information for § 87(2)(b). The undersigned left business cards and was informed that they would be passed to § 87(2)(b) and if § 87(2)(b) wished to be involved, he would contact the CCRB. As of the date of this report, § 87(2)(b) has not contacted the CCRB.

Even though none of the victims in the case noted that § 87(2)(b) also known as § 87(2)(b), was present for any of the allegations, attempts were made to speak with him about the case. Through his attorney, § 87(2)(b), § 87(2)(b) contacted the CCRB by phone on August 25, 2011 and an in person interview was scheduled at the CCRB for September 2, 2011. § 87(2)(b) missed this appointment without calling ahead of time to cancel or reschedule. On September 6, 2011, a missed appointment letter was sent to § 87(2)(b). As of the date of the report, § 87(2)(b) did not contact the CCRB to provide a statement.

§ 87(2)(b) stated that he was with his friend, § 87(2)(b) when he left the club. § 87(2)(b) did not provide any further identifying information for § 87(2)(b) or contact information. A Lexis Nexis search was conducted for § 87(2)(b) but there are numerous individuals in the City of New York with that name. Without any further identifying information, due to the commonality of the name, § 87(2)(b) could not be contacted.

The holding pen roster for the 7<sup>th</sup> Precinct stationhouse listed three additional people inside of the cells at the same time as § 87(2)(b) in addition to § 87(2)(b) who may have witnessed his allegations, § 87(2)(b) and § 87(2)(b). However, none of these individuals were listed in the command log or in BADS, so additional identifying information could not be obtained. A Lexis-Nexis search was conducted for each of these individuals. The results for § 87(2)(b) were too numerous to narrow down without any limiting information. Two addresses, but no phone numbers, were found for § 87(2)(b). Letters were sent to both of these address on June 19, 2012 and July 2, 2012. These letters have not been returned to the CCRB and there has been no response from § 87(2)(b). Lexis-Nexis provided numerous results for § 87(2)(b) but only one residing in the New York City area. § 87(2)(b) was contacted by phone at the number obtained from Lexis-Nexis on August 6, 2012 and stated that he was never inside the 7<sup>th</sup> Precinct cells and denied being present for the incident.

#### **NYPD Statements:**

##### **Subject Officer Interview: PO MATTHEW MAURO**

- PO Mauro is a § 87(2)(b).
- PO Mauro worked from 11:15 p.m. on June 28, 2011 until 7:50 a.m. on June 29, 2011. PO Mauro was dressed in uniform and assigned to patrol with PO Hyonjin Ha. PO Mauro was assigned to a marked police vehicle, 4548.

##### **Memobook**

PO Mauro's memo book states that at 11:42 p.m. on June 28, 2011, he responded to a dispute at § 87(2)(b). At 12:52 a.m. on June 29, 2011, PO Mauro had two individuals under arrest, § 87(2)(b) and § 87(2)(b) (encl. E 1-3).

##### **Complaint and Arrest Reports**

PO Mauro completed the complaint and arrests reports in relation to the arrest of § 87(2)(b) (encl. E 4-15).

**Arrest** § 87(2)(b), § 87(2)(a) 160.50 – § 87(2)(b) was told to clear the street and he attempted to hit PO Barry. When an officer attempted to restrain § 87(2)(b), § 87(2)(b) hit the officer in the face, causing a fractured nose and injury to the hand. § 87(2)(b) was shouting and causing public alarm and incitement while trying to resist arrest and get away. A search incident to arrest yielded a bag of alleged marijuana in § 87(2)(b)'s right pocket. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50 (encl. E 12-13).

##### **Criminal Court Complaint**

PO Mauro completed a criminal court complaint in regard to the arrest of § 87(2)(b) which was consistent with the complaint and arrest reports filed relating to the incident (encl. E 16-17).

##### **CCRB Statement**

PO Mauro was interviewed at the CCRB on October 11, 2011 (encl. E 19-22). On June 28, 2011 at about 11:42 p.m., PO Mauro and PO Ha responded to a call at § 87(2)(b) in Manhattan for § 87(2)(b) being assaulted. The address is the § 87(2)(b). Upon arrival, there were three bouncers standing on the sidewalk. PO Mauro spoke with one of § 87(2)(b) who stated that individuals arrived at the location, threw bottles at them, and then ran into the club without paying. PO Mauro went to the basement of the club with § 87(2)(b) and viewed the video footage of the incident.

§ 87(2)(b) said that he would be able to identify the individuals, so PO Mauro went inside of the club. There were about 700 people inside the club and § 87(2)(b) was not able to see the individual from where they were standing. About ten minutes after PO Mauro responded to the location, Sgt. Vasquez responded and PO Mauro told him what happened. The club was overcrowded and the music was loud so Sgt. Vasquez, who was the cabaret sergeant, decided to close down the club. Several other officers, including PO Chau and PO Nelson, were present.

Sgt. Vasquez told the bouncers to turn the lights on in the club, shut the music down, and have everyone exit the location. § 87(2)(b) came back outside after about ten minutes and said that no one was leaving. PO Mauro and six or seven other officers entered the club and started to escort people outside of the club one by one. About the fourth or fifth person that PO Mauro was escorting outside of the club started to argue with the officers. This individual was identified by the investigation as § 87(2)(b). PO Mauro and another officer physically escorted § 87(2)(b) out of the club. PO Mauro grabbed § 87(2)(b) by one of his arms and the other officer grabbed him by the opposite arm, lifted him up, and walked him outside of the club. PO Mauro did not remember what other officers assisted him. No officer discharged pepper spray.

§ 87(2)(b) was yelling, stating “fuck you.” PO Mauro did not respond and when outside the club, let § 87(2)(b) go. PO Mauro returned to the club to escort more people out of the location. § 87(2)(b) interacted with another officer outside the club that resulted in his arrest. PO Mauro did not see what lead up to this. While PO Mauro was inside of the club, he saw a scuffle, so he exited the club. § 87(2)(b) was fighting with officers outside of the club and many people started to pile out of the club. PO Mauro did not remember what officers were arresting § 87(2)(b) but stated that he saw Sgt. Vasquez assisting in the arrest. PO Mauro, PO Ha, and PO Nelson were doing crowd control. PO Mauro had his back to § 87(2)(b) and did not observe the specific force that was used against him because he was focused on the crowd, attempting to keep them back.

An individual, who PO Mauro identified by name as § 87(2)(b) came outside with a large video camera. The officers were trying to keep people back from § 87(2)(b) but § 87(2)(b) was trying to push in with his large camera to focus on § 87(2)(b). PO Mauro tried to back § 87(2)(b) up about three times by pushing him and telling him that he would be arrested if he did not leave, but he continued to push in, so PO Mauro placed him under arrest. PO Mauro put one handcuff on § 87(2)(b) and when PO Mauro attempted to get his other hand, § 87(2)(b) pulled away. PO Mauro pushed § 87(2)(b) against a nearby vehicle and PO Mauro was able to grab the second hand and with the assistance of PO Chau, the officers were able to get § 87(2)(b) into handcuffs without much resistance. A civilian came and took the camera from § 87(2)(b). PO Mauro did not remember if he or any other officer told him to put the camera down before he smashed it. PO Mauro might have told § 87(2)(b) to “shut the fuck up,” but he did not specifically remember. PO Mauro did not punch § 87(2)(b) and did not observe any other officers do so.

PO Mauro stayed with § 87(2)(b) and § 87(2)(b) and was waiting for the crowd to leave because the crowd was blocking their police vehicle. PO Mauro did not know if PO Chau had a verbal argument with § 87(2)(b).

About ten minutes later, an individual who PO Mauro identified as § 87(2)(b) started to argue with a female officer about ten to fifteen feet away from where PO Mauro was located. § 87(2)(b) fought with and punched several officers. PO Mauro went to assist these officers, leaving PO Chau and PO Lesley Pierluisse with § 87(2)(b). PO Mauro did not specifically see how it started, but when PO Mauro got close, he did observe § 87(2)(b) punch PO Barry in the face, breaking his nose.



Two officers pulled § 87(2)(b) to the side, but § 87(2)(b) was trying to run, so PO Mauro grabbed him. PO Mauro took out his asp and struck § 87(2)(b) twice, once on the hip and once near his armpit. § 87(2)(b) was taken to the ground, where PO Mauro was pulling at his arms. PO Mauro was not paying attention to what other officers were doing, so he did not know if other officers hit him with asps. PO Mauro jumped on top of § 87(2)(b) and was able to take him to the ground. PO Mauro was not sure if he punched § 87(2)(b) but stated that he probably kicked § 87(2)(b) in the shoulder area to get him to roll over. PO Mauro explained that he tried to lift § 87(2)(b) with his foot.

PO Mauro was near § 87(2)(b)'s upper body and there were multiple other officers near the lower part of § 87(2)(b)'s body. PO Mauro was the only officer near the upper part of § 87(2)(b)'s body. PO Mauro did not remember if he kicked § 87(2)(b) in the face. PO Mauro did not know what other officers were doing or if they kicked § 87(2)(b). Altogether, it took the officers two to three minutes to get § 87(2)(b) in handcuffs.

While arresting § 87(2)(b) many people in the crowd were trying to interfere and were yelling at the officers. PO Mauro did not see what specifically they were doing because he was concentrating on § 87(2)(b). At some point, PO Chau got his tooth knocked out, but PO Mauro did not see how this occurred.

§ 87(2)(b) was bleeding from the face and had a cut on his legs, so PO Brinkley took § 87(2)(b) to an ambulance that was already at the location. There were many officers involved in arresting § 87(2)(b) but PO Mauro could only remember Sgt. Vasquez and PO Barry. PO Mauro may have used obscene language against § 87(2)(b) but he did not remember. PO Mauro never told him to “get the fuck out of his face,” stating that § 87(2)(b) was not in his face. PO Mauro did not hear another officer make this comment. PO Mauro did not hear an officer say, “Arrest that motherfucker.” PO Mauro did not use his pepper spray and did not know if any other officers did.

PO Mauro remained on the scene for about fifteen to twenty minutes and then transported § 87(2)(b) to the stationhouse. About 50 police officers, from many commands, responded to the location. There was also an arrested female that was present, but PO Mauro did not know who that was and did not witness her arrest. PO Mauro did not use any discourteous language at the stationhouse.

In the stationhouse, PO Mauro put § 87(2)(b) into the cells and completed work on the computer near the cells. PO Mauro did not hear officers state, “Did you fuck them up. Did you smash cameras and cell phones? You guys are fucking lucky I wasn’t working or I would have beat the shit out of you.” PO Mauro did not hear anyone say, “Let the bitch bleed out.”

**Subject Officer: SGT. MARK VASQUEZ**

- *Sgt. Vasquez is a § 87(2)(b)*
- *Sgt. Vasquez worked from 11:15 p.m. on June 28, 2011 until 8:02 a.m. on June 29, 2011 as the 7<sup>th</sup> Precinct patrol supervisor. He and his partner, PO McDougall, were dressed in uniform and assigned to RMP# 5138.*

**Photograph**

Sgt. Vasquez provided two photographs of himself during his CCRB interview. The photographs show an abrasion to his right neck and an abrasion to his right arm (encl. E 26).

### **Memo book**

Sgt. Vasquez's memo book states that at 11:31 p.m. there was a call for a dispute at § 87(2)(b). At 12:10 a.m., a business inspection was conducted § 87(2)(b). At 12:15 a.m., officer needs assistance, was called in regard to violent disorderly crowd fighting with police. At 12:27 a.m., a level 1 mobilization was called in regards to disorderly crowd. At 12:45 a.m., three males and two 2 females were arrested by sector C for § 87(2)(b), § 87(2)(a) 160.50. Summonses were served for § 87(2)(b). Four officers were injured, PO Lauren Diaz, PO Philip Chau, PO Hugh Barry, and PO Johnny Szeto (encl. E 23-25).

### **Line-Of-Duty Injury Report**

While Sgt. Vasquez was attempting to arrest an individual, § 87(2)(b) placed her hands around his neck and squeezed with her nails. Sgt. Vasquez suffered an abrasion to his neck and multiples scratches to his face and right elbow (encl. E 27).

### **Witness Statement**

As PO Diaz was assisting in the apprehension of an individual, the individual punched her multiple times in the head causing several contusions. Sgt. Vasquez observed the individual strike PO Diaz with a closed fist (encl. E 28).

### **CCRB Statement**

Sgt. Vasquez was interviewed at the CCRB on May 10, 2012 (encl. E 34-38). On the incident date, Sgt. Vasquez received a call reporting a dispute at § 87(2)(b). A sector responded first, followed by Sgt. Vasquez. When Sgt. Vasquez arrived on the scene, officers were interviewing bouncers at the club. There was a crowd outside, drinking in public and one officer wrote a summons for someone that was drinking. A bouncer said he was assaulted during a fight outside, during which bottles were thrown. § 87(2)(b) said the fight began because the club was overcrowded and they were not allowing more people inside which resulted in people getting angry and sneaking or forcing their way inside.

Sgt. Vasquez asked § 87(2)(b) of § 87(2)(b) if they had control of situation. § 87(2)(b) requested officers close the party, saying they did not have enough personnel and they were unsure if the premises was overcapacity. Sgt. Vasquez agreed and said he would do a business inspection.

Sgt. Vasquez explained a business inspection is when officers go to an establishment and do an inspection to make sure the establishment is up to code on different types of violations. In this situation, they were looking to see if § 87(2)(b) was overcapacity. Typically, officers try to find the certificate of occupancy, which says how many people are allowed in the premise. If the actual capacity exceeds the limit, the establishment has to be closed. Bouncers and cavalry officers both have counters and they usually compare the number of people measured on the counters. There is also supposed to be at least one security guard per seventy-five patrons. Sgt. Vasquez went to the back of the club and determined that there was definitely overcrowding. Sgt. Vasquez has had experience with § 87(2)(b) in the past, and could tell just by looking that it was overcapacity. Inside, it was shoulder to shoulder. There were only three security guards for at least three hundred people. Since bouncers requested the party be shut down, Sgt. Vasquez instructed a bouncer to tell the DJ, "Lights on, music off." Mr. Vasquez said this was to prevent confusion, so people would understand the party was over. Doors were opened and people started leaving orderly.

Many people left without any problem, but there was one man, § 87(2)(b) who appeared very drunk and who remained in the vestibule, saying, “Fuck the police, we don’t have to leave. This is bullshit.” Several officers, who Sgt. Vasquez did not recall, went inside to ask him to leave; he refused and acted very irate. Sgt. Vasquez did not witness this, but believes one officer tried to grasp § 87(2)(b)’s upper arm to remove him from the premises. Sgt. Vasquez does not remember the officer, only that he heard a commotion that caused him to walk over and into the club. Sgt. Vasquez viewed the club video at the 12:00 minute mark and identified himself on video entering the club with PO Mauro and PO McDougall.

Inside the club, Sgt. Vasquez saw § 87(2)(b) cursing and flailing his arms, while officers pulled at him. Officers managed to bring § 87(2)(b) into the vestibule area, where he continued to fight with them. § 87(2)(b) elbowed PO Chau in the face, which Sgt. Vasquez pointed out in the video at the 12:58 minute mark. § 87(2)(b) was then pulled by officers outside of the vestibule area and outside of the club where he was taken to the ground. Sgt. Vasquez approached § 87(2)(b) while he was on the ground. Sgt. Vasquez denied kicking § 87(2)(b). Sgt. Vasquez reviewed the video and explained that he did not recall kicking or stomping on § 87(2)(b). Instead, he lifted his leg, and put it down nearby and next to § 87(2)(b). Sgt. Vasquez stated that he stepped and fell. Sgt. Vasquez did not want to step on § 87(2)(b) so he stepped over him and put his foot down.

As officers tried to get him to the ground, § 87(2)(b) continued fighting and resisting. Sgt. Vasquez punched § 87(2)(b) a couple times in the arms in an attempt to handcuff him. Sgt. Vasquez explained if you hit someone’s arm in a pressure point, the arm gives out and you can usually get their arms behind their back. When he punched § 87(2)(b) however, § 87(2)(b) turned around right away and held his arms underneath his body. As a result, Sgt. Vasquez pepper sprayed § 87(2)(b). This is shown in the video at the 13:27 mark. After § 87(2)(b) was pepper sprayed, Sgt. Vasquez handcuffed him. § 87(2)(b) was still kicking with his legs as this went on.

Sgt. Vasquez said he did not strike § 87(2)(b) with an asp at any point, nor did he see any other officers strike him with an asp. After § 87(2)(b) was handcuffed, Sgt. Vasquez called for a car. By that time, a riot had been incited and a crowd of over 200 people was standing around, yelling and cursing, saying, “Fuck the police.” Officers started moving the crowd, telling them they had to go either up or down the block or leave the premises. People were still cursing. Sgt. Vasquez realized they were outnumbered and that it was getting pretty hostile, so he called for additional units to respond to the location.

Sgt. Vasquez told people to move down the block. Sgt. Vasquez identified himself as saying, “I swear to god, get the fuck out of here” on Video 6 at the 00:02 mark. Sgt. Vasquez explained he had to use his command voice to get people to move and that officers are allowed to curse. He said his expletives were intended as an escalation of force and not to be derogatory. Sgt. Vasquez stated he had been telling people to move earlier without using expletives, but they were unresponsive. Once he began using expletives and being more forceful with his voice, he said people began moving. Sgt. Vasquez noted that the Chief of Department has even used profanity in crowd situations. Sgt. Vasquez does not recall himself or any other officers saying, “Arrest that mother fucker,” “Did you fuck them up? Did you smash their cameras and cellphones?”, “I would’ve beat the shit out of you”, or “Let the bitch bleed out” at any point.

As Sgt. Vasquez was walking down the sidewalk he heard PO Diaz yelling. He identified PO Diaz in Video 5 at the 2:43 mark, saying, “Get the fuck out of my face.” Sgt. Vasquez did not see what precipitated PO Diaz’s comment, because his back was turned at the time. Upon turning, he saw § 87(2)(b) hovering over PO Diaz as she tried to push him back. Sgt. Vasquez intervened and pushed § 87(2)(b) back, telling him, “Put your hands behind your back; you’re under arrest.” § 87(2)(b) said, “Fuck you,” and put his hands up. As Sgt. Vasquez tried to turn him over to handcuff him, he hit § 87(2)(b) once with an asp on his butt. In response, § 87(2)(b) threw a left hook to Sgt. Vasquez’s right ear. Meanwhile, § 87(2)(b)’s girlfriend was intervening and saying, “Don’t touch my boyfriend. Get the fuck off of my boyfriend,” which Sgt. Vasquez classified as OGA. The girlfriend placed her hands around Sgt. Vasquez’s neck, causing a gash to his neck.

Other officers came to assist Sgt. Vasquez as § 87(2)(b) continued to fight with the officers. PO Barry got struck by § 87(2)(b) in the nose, breaking it. Sgt. Vasquez pointed this action out in Video 1 at the 2:09 minute mark. Sgt. Vasquez then hit § 87(2)(b) a couple times with an asp, striking § 87(2)(b)'s back and shoulders. Sgt. Vasquez denied that he struck § 87(2)(b) in the head with an asp and stated that in Video 1 at the 2:10 minute mark, the asp struck § 87(2)(b) in the shoulder.

Shortly after § 87(2)(b) got hit with the asp, officers grabbed and contained him. Sgt. Vasquez said § 87(2)(b) fell to the ground pretty hard. By the time Sgt. Vasquez handcuffed him and turned him over, he noticed § 87(2)(b) had a cut on his head and was bleeding. Sgt. Vasquez does not recall exactly what area of the head he was bleeding from. He did not notice any bleeding prior to § 87(2)(b) being on the floor. Sgt. Vasquez said he remembers there being a lot of glass and debris on the ground. Sgt. Vasquez believed that he must have come into contact with glass on the ground or that the fall to the ground itself could have caused the cut to § 87(2)(b)'s head.

Sgt. Vasquez notified EMS, who came to the scene to remove § 87(2)(b) to the hospital. By that time, at least 40 or 50 officers had responded to the scene, including Borough Task Force. Sgt. Vasquez explained when a Level 1 mobilization is called, Borough Task Force is called. In addition, due to the Level 1 mobilization, many commands from lower Manhattan responded to the location.

The individuals who were arrested were ultimately brought back to the 7<sup>th</sup> Precinct stationhouse. Sgt. Vasquez said he did not have any interaction with the arrested individuals in the cell area, nor did he hear officers say anything to them. Sgt. Vasquez was busy informing the duty captain what was going on. IAB was notified about the incident and § 87(2)(b)'s injuries.

Sgt. Vasquez also did line of duty paperwork for all the officers that were injured, some of whom went to the hospital. PO Diaz sustained a lump on her forehead, PO Barry was punched in the nose, PO Szeto had multiple contusions, scars, and bumps on his head, and PO Chau had his tooth knocked out. Sgt. Vasquez sustained a gash on the right side of his neck and his whole right ear was red and swollen. He believes the gash on his neck was from § 87(2)(b) who put her hands around his neck, trying to choke him. The injury to his ear was from the left hook § 87(2)(b) threw at him during the struggle. [Sgt. Vasquez also provided these photographs to the CCRB.]

Sgt. Vasquez was shown an arrest photograph of § 87(2)(b). Sgt. Vasquez said he remembered § 87(2)(b) was arrested, but not which officer arrested him. When told § 87(2)(b) was arrested close to where § 87(2)(b) was arrested, Sgt. Vasquez said he was down the block at that time and probably had not had any interaction with him.

[Note: Numerous times throughout the interview, Sgt. Vasquez, upon the advice of counsel, exited the room after viewing video clips of the incident to privately discuss what his response would be on the record to questions presented about his actions in the video.]

**Witness Officer: PO GERALD MCDUGALL**

- PO McDougall is a § 87(2)(b).
- PO McDougall worked from 9:30 p.m. on June 28, 2011 until 6:05 a.m. on June 29, 2011. PO McDougall was dressed in uniform and was assigned to cabaret conditions with Sgt. Vasquez.

**Memo book**

PO McDougall's memo book stated that at 12:10 a.m. there was a business inspection at § 87(2)(b) in Manhattan. At 12:45 a.m., there were three individuals under arrest; § 87(2)(b) and § 87(2)(b). Three summonses were issued to § 87(2)(b) for § 87(2)(b).

§ 87(2)(b) (encl. E 39-40).

### **Complaint and Arrest Reports**

PO McDougall completed the complaint and arrests reports in relation to the arrests of § 87(2)(b) (encl. E 41-50).

**Arrest** § 87(2)(b), § 87(2) – § 87(2)(b) did swing his elbow and strike a police officer [PO Chau] in the face, breaking one of his teeth and causing him pain. § 87(2)(b) then flailed his arms wildly to avoid being handcuffed. § 87(2)(b)'s actions, along with approximately thirty others did cause persons other than themselves physical injury. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50

**Arrest** § 87(2)(b), § 87(2) – § 87(2)(b) refused to move when given a lawful order. § 87(2)(b) then struck an officer [PO Chau] in the head repeatedly with a closed fist causing swelling and pain. § 87(2)(b) swung her arms violently to avoid being handcuffed. § 87(2)(b)'s actions in concert with approximately thirty others did cause physical injury to persons other than themselves. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50

**Arrest** § 87(2)(b), § 87(2) – § 87(2)(b) did obstruct the breathing of a police officer [Sgt. Vasquez] by applying pressure to his throat with her hands. § 87(2)(b)'s actions left the officer with several cuts and abrasions on his face and neck causing him pain. § 87(2)(b)'s actions were an attempt to interfere with the police executing a lawful arrest. § 87(2)(b)'s actions in concert with approximately thirty others did cause physical injury to persons other than themselves. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50

### **Criminal Court Complaints**

PO McDougall completed the criminal court complaints in relation to the arrests of § 87(2)(b) (encl. E 51-56). The details noted are consistent with those indicated in the complaints and arrest reports.

### **CCRB Statement**

PO McDougall was interviewed by the CCRB on November 3, 2011 (encl. E 57-59). On the incident date, after the club was shut down, patrons were not leaving the club. PO McDougall and Sgt. Vasquez entered the club and started escorting patrons outside by holding onto their arms and walking them to the door. There were other officers in the club doing this as well, but PO McDougall did not remember who they were. One individual, who has been identified by the investigation as § 87(2)(b) refused to leave the club. § 87(2)(b) was screaming that he did not want to go and was flailing his arms in the air. Sgt. Vasquez grabbed § 87(2)(b) and tried to get him outside the club. This occurred in a small vestibule area separating the main club from the outside. When this happened, the people that were inside the club started pushing out of the club. PO McDougall did not want to get caught in a group of people pushing outside the club so he pushed Sgt. Vasquez and § 87(2)(b) out of the club and onto the sidewalk.

Other officers that were outside of the club grabbed § 87(2)(b) brought him to the ground, and arrested him. PO McDougall had his back to § 87(2)(b) and was facing the club, focusing on the large crowd pushing their way outside the club and did not see specifically how § 87(2)(b) was arrested. PO McDougall did not see an officer hit § 87(2)(b) with a baton and did not see § 87(2)(b) pepper sprayed. PO McDougall did not see any individual punch or kick § 87(2)(b)

PO McDougall then walked down the street and was trying to get civilians to leave the area. PO McDougall was doing this verbally by telling people to get off the street and leave the area. PO McDougall explained that there

were about 250 people in the street and only about 30 police officers at the location.

While PO McDougall was in the street, he observed an individual, who has been identified by the investigation as § 87(2)(b) start to fight with police officers. This happened on the opposite side of the street from the club. PO McDougall stated that he saw videos of the arrest of § 87(2)(b) with the prosecution lawyers, so he was not sure what part of his recollection was from the videos and what was from what he specifically witnessed on the incident date.

PO McDougall saw a large commotion and § 87(2)(b) swinging his arms at the police. PO McDougall explained that there were already four or five officers interacting with § 87(2)(b) so PO McDougall stood near them to keep any other civilians from getting involved in the incident. PO McDougall then saw two unidentified males running toward the struggle. PO McDougall did not know who these males were, but it looked like they were running toward § 87(2)(b) to get involved in the struggle between him and officers. PO McDougall told these individuals to stop. When they did not, he took out his pepper spray and pointed it at them. The individuals continued to run toward § 87(2)(b) so PO McDougall discharged his pepper spray at the two individuals. When the two individuals were pepper sprayed they fled the area and did not become involved in the incident. PO McDougall stated that there was no way to apprehend these individuals because the crowd was so thick when they ran.

PO McDougall did not see specifically how § 87(2)(b) was apprehended. PO McDougall saw on video that § 87(2)(b) was struck with asps, but he did not specifically see this on scene. PO McDougall was not physically involved in apprehending any of the other individuals who were placed under arrest at the location. PO McDougall did not have a baton with him on the incident date.

After the streets were cleared, PO McDougall returned to the 7<sup>th</sup> Precinct stationhouse where he processed the arrests of § 87(2)(b) and § 87(2)(b). The only individuals he specifically interacted with at the stationhouse were § 87(2)(b) and § 87(2)(b). PO McDougall denied stating that he would “fuck” anyone up or that anyone should “bleed out.” PO McDougall also never said that he would damage anyone’s camera or cell phone. PO McDougall did not call anyone a “bitch” or a “motherfucker” and did not hear any other officers make these comments. PO McDougall did not curse at anyone inside the cells and did not curse at anyone throughout the incident. PO McDougall did not remember hearing any officers cursing throughout the incident or saying anything such as “get the fuck back.”

**Subject Officer: PO PHILIP CHAU**

- *PO Chau is a § 87(2)(b).*
- *On June 29, 2011, PO Chau was dressed in uniform and as assigned to the Cabaret Unit with PO Erik Nilson. PO Chau worked a tour from 9:30 p.m. on June 28, 2011 until 6:05 a.m. on June 29, 2011 and was assigned to an unmarked black vehicle.*

**Photograph**

Sgt. Vasquez provided a photograph of PO Chau during his CCRB interview. The photograph shows PO Chau with a broken front tooth (encl. E 63).

**Memo book**

PO Chau’s memo book states that at 11:42 p.m., he responded to a dispute at § 87(2)(b). At 12:15 a.m., a call for assistance was made to the same address. At 12:45 a.m., 5 arrest were made at the address. At 2:05 a.m., PO Chau went to § 87(2)(b) (encl. 60-62).

**CCRB Statement**

PO Chau was interviewed at the CCRB on December 16, 2011 (encl. E 68-70). On the incident date, PO Chau

and PO Nilson responded to the location in regard to a dispute. Sgt. Vasquez arrived and closed down the club because there were too many people inside. People were attempting to exit the club, but an individual, identified by PO Chau by name as § 87(2)(b) was trying to get inside the location and was blocking the flow of people leaving. § 87(2)(b) who appeared intoxicated, was irate and refused to leave when instructed to do so.

§ 87(2)(b) pushed Sgt. Vasquez. PO McDougall grabbed § 87(2)(b) pulled him back, and pushed him toward PO Chau. PO Chau attempted to grab § 87(2)(b) but § 87(2)(b) elbowed PO Chau in the mouth, breaking one of his teeth. Another officer, who PO Chau could not recall, pulled § 87(2)(b) outside of the club. PO Chau went outside the club and checked his face to make sure that he was okay. PO Chau realized at that point that his tooth was broken. Other officers outside the club were placing § 87(2)(b) under arrest and PO Chau could hear the officers saying “give me your arms,” but PO Chau did not see § 87(2)(b) get arrested and did not witness the force used against him. PO Chau did not hit § 87(2)(b) with a baton and did not see any other officer do so. PO Chau did not see Sgt. Vasquez punch § 87(2)(b) in the face and did not see any officer grab § 87(2)(b) by the neck. PO Chau did not discharge his pepper spray and did not see any other officer do so.

Many people who were inside of the club started to exit and pour out into the street. PO Chau went into the street and started to tell people that they had to move out of the street because they were blocking traffic. PO Chau observed an individual who he identified by name as § 87(2)(b) standing in the street. PO Chau told her to move onto the sidewalk and § 87(2)(b) told PO Chau “no.” PO Chau told her that she had to get on the sidewalk or she would be issued a summons. § 87(2)(b) still refused so PO Chau grabbed her and walked her toward the sidewalk. Once on the sidewalk, PO Chau asked her for identification. § 87(2)(b) told PO Chau “no” and then proceeded to punch PO Chau in the face.

PO Chau tried to arrest § 87(2)(b) but she tripped and fell to the ground. PO Chau then proceeded to place § 87(2)(b) under arrest. PO Chau told § 87(2)(b) to give him her hands, but she refused. PO Chau just waited and he was able to get her into handcuffs. PO Chau remembered another female at the location, who has been identified by the investigation as § 87(2)(b) § 87(2)(b) was asking why PO Chau was arresting her daughter and PO Chau told her because she hit him. PO Chau did not remember any other interaction with § 87(2)(b) and did not remember if she was also on the ground. PO Chau did not hit § 87(2)(b) with an asp. PO Chau did not see any other officer hit her with an asp. PO Chau did not remember if any other officers assisted in handcuffing § 87(2)(b).

After § 87(2)(b) was handcuffed, PO Chau remained at the location with her. PO Chau did not participate in any other arrests. PO Chau did not recognize the photographs of § 87(2)(b) or § 87(2)(b) and did not see their arrests take place or the force used against them. PO Chau could not remember how long he remained at the location with § 87(2)(b) PO Chau did not remember what he did next, but stated that other officers transported § 87(2)(b) from the location and PO Chau departed the location in his police vehicle. PO Chau went back to the stationhouse and then went to § 87(2)(b) for his injuries which included a broken tooth, a swollen eye, and a lump on his head.

PO Chau never told anyone to put their cameras down or he would damage them. PO Chau never said “Get the fuck back.” PO Chau did not curse and did not hear any other officers curse. PO Chau never interacted with any of the prisoners inside the cell room. PO Chau never told anyone that they should “bleed out.” PO Chau never called anyone a “motherfucker” or a “bitch.” PO Chau never said that he would “fuck them up.” PO Chau did not see any officer with their asps or batons out during the incident.

**Subject Officer: PO LAUREN DIAZ**

- PO Diaz is a § 87(2)(b).
- On June 29, 2011, PO Diaz was dressed in uniform and as assigned to the sector patrol with PO Brinkley. PO Diaz worked a tour from 11:15 p.m. on June 28, 2011 until 7:50 a.m. on June 29, 2011

*and was assigned to a marked police vehicle.*

### **Photograph**

Sgt. Vasquez provided a photograph of PO Diaz during his CCRB interview. The photograph shows a contusion to the left side of her forehead (encl. E 75).

### **Memo book**

PO Diaz's memo book states that 12:22 a.m., she responded to a call for assistance at § 87(2)(b). At 12:25 a.m., there was a disorderly crowd. One person was resisting and was apprehended. PO Diaz was struck in the head, causing a large contusion. PO Barry had a bloody nose, possibly broken. PO Szeto was punched in the face, causing abrasions. Perpetrator was § 87(2)(b). Also, a female perpetrator, § 87(2)(b) attacked officers causing multiple lacerations to Sgt. Vasquez and PO Szeto's head and face. She was arrested for § 87(2)(b), § 87(2)(b). At 1:00 a.m., PO Diaz went to § 87(2)(b). At 3:45 a.m., PO Diaz returned to the 7<sup>th</sup> Precinct stationhouse (encl. E 71-74).

### **Line-of-Duty Injury Report**

As PO Diaz was clearing the sidewalk, an individual § 87(2)(b) threw his elbow at PO Diaz's face. PO Diaz used physical force to push the individual away and the individual attempted to punch PO Diaz. While attempting to apprehend the individual, PO Diaz sustained a contusion to the forehead causing substantial pain to the head and nose as well as sporadic dizziness (encl. E 81).

### **CCRB Statement**

PO Diaz was interviewed at the CCRB on January 27, 2012 (encl. E 83-85). Upon arrival at the location, there were many people in the streets yelling, "fuck the police." The officers were highly outnumbered. PO Diaz looked around and did not see any officers that needed immediate assistance, so she began to clear the streets by telling people that they had to move out of the area. PO Diaz explained that given the situation, the officers had to get people to move out of the area, so she would walk on the street and tell people standing around that they would need to keep it moving. Sometimes she would put her hand into people's back, to encourage them to move out of the area. As PO Diaz was walking on the sidewalk, she encountered § 87(2)(b) and his girlfriend, § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) were just standing around "idling." PO Diaz told them to please leave and "keep it moving." § 87(2)(b) told PO Diaz, "don't touch me" and pushed her hand away. § 87(2)(b) said that he did not have to leave and that he could do whatever he wanted. PO Diaz tried to get him to move by continuing down the sidewalk, but § 87(2)(b) told PO Diaz that he was going to go in a different direction, and indicated that he wanted to walk between two parked cars and walk into the street. PO Diaz told him that he could walk any way he liked, but could not remain in the area.

As § 87(2)(b) walked away, PO Diaz put her hand on § 87(2)(b)'s back to guide him in moving along. § 87(2)(b) who initially had his back to PO Diaz, turned around to face PO Diaz and swung his elbow, almost striking PO Diaz in the face. PO Diaz explained that she is short, so this action which almost struck her in the nose, but went above her head. PO Diaz then pushed § 87(2)(b) away from her, told him to leave, and attempted to reach for something on her belt such as her pepper spray or handcuffs to protect herself, but § 87(2)(b) came at PO Diaz. § 87(2)(b) raised one of his fists like he was about to swing at her, but PO Diaz yelled to other officers who were able to grab him before he could make the swing. PO Diaz yelled, "Are you fucking stupid? When I tell you to leave you leave." This comment accomplished this as an officer, who PO Diaz could not remember but was identified by the investigation as Sgt. Vasquez, grabbed § 87(2)(b) before he could swing at PO § 87(2)(b).

§ 87(2)(b) immediately starting fighting and violently resisted by swinging his hands. PO Diaz could not describe the specific actions of § 87(2)(b) and the officers, but described the situation as "mayhem." PO Diaz assisted by going in low and trying to grab § 87(2)(b)'s legs. PO Diaz explained that by going toward his legs,



§ 87(2)(b) had the least chance of striking her.

Initially, when § 87(2)(b) started resisting and fighting, § 87(2)(b) moved off to the side and did not become involved. However, at some point, she interjected herself into the situation. First, PO Diaz said that § 87(2)(b) jumped on Sgt. Vasquez's neck. When she was asked to clarify what that meant, PO Diaz said that § 87(2)(b) lunged forward and grabbed Sgt. Vasquez by the collar of his shirt and in the process scratched his neck.

PO Diaz grabbed § 87(2)(b) by the waist and pulled her away and placed § 87(2)(b) in handcuffs. § 87(2)(b) slightly resisted, but PO Diaz was able to overcome this by pulling § 87(2)(b)'s arms behind her back and handcuffing her. No further force was used against her. At this point, there were many police officers trying to handcuff § 87(2)(b) so PO Diaz did not get back into the situation and remained with § 87(2)(b).

§ 87(2)(b) was on the ground at this point, but still would not get on his stomach or put his hands behind his back. PO Diaz saw officers using batons to try and force him to succumb to the officers. § 87(2)(b) was being hit in the leg and ankle area. PO Diaz had her asp out, but did not have the opportunity to expand it. PO Diaz carries pepper spray, but did not use it during the incident. PO Diaz smelled pepper spray in the area, but did not see who was pepper sprayed or which officer sprayed it.

An ambulance arrived at the location and PO Diaz and PO Szeto took § 87(2)(b) to the ambulance and went with him to § 87(2)(b). PO Diaz sustained a large contusion to her head as a result of the incident. PO Diaz did not know how specifically she sustained this injury, but stated that it likely occurred when § 87(2)(b) was resisting arrest. PO Diaz had a mild concussion.

PO Diaz returned to the stationhouse at about 3:30 a.m. PO Diaz did not interact with any of the people who were arrested and was not involved in arrest processing. PO Diaz did not witness any interaction at the stationhouse between officers and the arrested individuals. PO Diaz never went into the cells and did not hear any officer curse at the individuals.

PO Diaz viewed video #1 and video #3 and confirmed that she is the officer seen telling § 87(2)(b) "Are you fucking stupid. Get the fuck out of my face." PO Diaz stated that § 87(2)(b) tried to elbow her before the videos were focused on her and § 87(2)(b) and therefore those actions could not be seen in the video.

**Subject Officer: PO HUGH BARRY**

- PO Barry is a § 87(2)(b).
- PO Barry worked from 11:15 p.m. on June 28, 2011 until 7:50 a.m. on June 29, 2011. PO Barry was dressed in uniform and assigned to patrol with PO Szeto. PO Barry was assigned to a marked police vehicle.

**Photograph**

Sgt. Vasquez provided a photograph of PO Barry during his CCRB interview. The photograph shows a contusion and swelling around PO Barry's nose (encl. E 89). IAB provided a black and white photograph of PO Barry's hand which shows swelling to the knuckles (encl. E 90).

**Memo book**

At 12:23 a.m., PO Barry received a call to assist sector A at § 87(2)(b) for a large disorderly crowd. At 12:25 a.m., PO Barry arrived at the location and attempted to apprehend a prisoner who was acting violently and disorderly when he was punched in the face. PO Barry sustained a broken nose and a sprained hand. At 1:00 a.m., PO Barry went to § 87(2)(b) (encl. E 86-88).

### **Line-of-Duty Injury Report**

PO Barry was attempting to restrain an individual § 87(2)(b) with PO Szeto and PO Diaz from acting in a violent manner when the individual punched PO Barry in the face, causing PO Barry's nose to bleed heavily and causing a possible break. PO Barry also sustained an injury to the right hand causing bleeding and swelling (encl. E 96).

### **CCRB Statement**

PO Barry was interviewed at the CCRB on October 14, 2011 (encl. E 97-99). Upon arrival at the incident location, there were hundreds of people on the street. PO Barry saw several officers trying to handcuff people, but he could not recall any details of these arrests. PO Barry stated that he tried to help these officers in handcuffing some of these individuals but could not recall what individual, what he did, or any of the circumstances surrounding the arrest. When asked, PO Barry did not have an explanation for why he did not remember the events of the evening, but noted that everything had happened so fast and he was punched in the face.

PO Barry saw one individual, who was identified by the investigation as § 87(2)(b) who was fighting with officers and swinging his hands in the air. PO Barry approached this individual and before he could do anything, § 87(2)(b) punched PO Barry in the face, breaking his nose. The officers were able to get § 87(2)(b) to the ground and get him into handcuffs. PO Barry did not punch or kick § 87(2)(b) and did not see any officer do so. PO Barry carries an extendable asp, but did not use it throughout the incident. PO Barry did not discharge his pepper spray and did not see any other officer discharge their pepper spray. PO Barry could not remember the physical actions that he used in assisting with the arrest for § 87(2)(b) stating that he was hit in the face. PO Barry became light headed and had blood in his face and all over his clothing.

PO Barry went to an ambulance that was nearby and was transported to § 87(2)(b) for his injuries. At the hospital, PO Barry was diagnosed with a broken nose.

After being released from the hospital, PO Barry returned to the 7<sup>th</sup> Precinct stationhouse. PO Barry did not interact with any of the civilians that were arrested at the stationhouse. PO Barry never interacted with anyone in the cells. PO Barry never stated, "Put the camera down before I break it," "Get the fuck back," "Get the fuck out of my face," "let the bitch bleed out" or call anyone a "motherfucker." PO Barry did not curse at any civilians. PO Barry did not hear anyone else make these comments.

### **Witness Officer: PO JONNY SZETO**

- PO Szeto is § 87(2)(b)

### **Photograph**

Sgt. Vasquez provided a photograph of PO Szeto during his CCRB interview. The photograph shows a contusion on his forehead above his left eye (encl. E 100). IAB also provided a black and white photograph of PO Szeto which shows a laceration to the back of his right ear (encl. E 101).

### **AIDED Report**

PO Szeto completed an AIDED report which states that he received an abrasion to the forehead and a laceration to the back of the head, eye, and ear as a result of an assault (encl. E 102-106).

### **Witness Statement**

PO Szeto prepared a written witness statement which states that he saw PO Barry get punched in the face by a perpetrator multiple times with a closed fist (encl. 107).

### **Officers Not Interviewed**

Numerous officers responded to this location from the 6<sup>th</sup> Precinct, 7<sup>th</sup> Precinct, 5<sup>th</sup> Precinct, 9<sup>th</sup> Precinct

Manhattan South Task Force, and ESU, which included PO Szeto, PO Mathison, PO Ha, PO Brinkley, PO Chiarlitti, and PO Pierluisee. However, given the amount of video footage obtained, their statement would not impact the recommended dispositions of the case. Therefore, no further officers were interviewed.

### **Medical Records**

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (encl. F 1-11). § 87(2)(b) complained of body pain to the right face, right knee, and right lower back. § 87(2)(b) was pepper sprayed.

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b). § 87(2)(b) had a laceration to the right ear lobe from his earring being pulled out, abrasions to his neck, left cheek, back, chest wall, and left shoulder. § 87(2)(b) had a laceration to his left rear head which required staples to mend. § 87(2)(b) was instructed to wear a C-collar. On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) for pain to his collar bone and neck pain. § 87(2)(b) was diagnosed with an unspecified neck injury and neck strain (encl. F 12-113).

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) (encl. F 114-133). § 87(2)(b) complained of neck pain and bruises to her left and right arms. § 87(2)(b) has also felt anxiety since her arrest on June 29, 2011. § 87(2)(b) was diagnosed with neck strain.

### **PO DIAZ**

PO Diaz was treated at § 87(2)(b) on § 87(2)(b) (encl. 134-147). PO Diaz was diagnosed with a contusion to her right temple.

### **NYPD Documents**

#### **Command Log**

The command log notes the arrests of § 87(2)(b) and § 87(2)(b) at 12:56 a.m. The physical condition of § 87(2)(b) and § 87(2)(b) is listed as apparently normal. There is no physical condition noted for § 87(2)(b). § 87(2)(b) is logged into the command log at 1:55 a.m. The command log notes that § 87(2)(b) has a laceration to the head and ribs (encl. G 14-17).

### **IAB Investigation**

This case is currently under investigation by IAB and it is assigned to Det. Mark Dennis of Group 54. The case remains open and is under investigation. After conferral with Det. Dennis on September 24, 2012, he expects a majority of the allegations in the case to be closed as unsubstantiated.

### **Other Evidence**

#### **Video Footage (encl. H 1-9)**

§ 87(2)(b) **Video** – This footage was obtained during field work directly from the § 87(2)(b) located at § 87(2)(b) in Manhattan. The club video footage from the § 87(2)(b) night club has five different angles. Two are directly in front of the club, views #1 and #2, one is of the vestibule leading from the body of the club to the main entrance, view #3, and the other two views are focused on the interior of the club, views #4 and #5.

At 12:07, Sgt. Vasquez, along with three other officers, including PO Mauro, PO McDougall, and PO Chau, entered the main entrance of the club, and proceed inside out of view of the camera.

At 12:47, in view #5, from a distance, an individual, who was identified by the investigation as § 87(2)(b) is seen swinging both of his hands into the air. Given the distance, the quality of the video is poor and what

preceded this motion cannot be seen. § 87(2)(b) was then pulled by officers into the vestibule of the club and into view #3. Officers, including PO Chau, PO McDougall, and Sgt. Vasquez attempted to push him up against the wall of the vestibule, but § 87(2)(b) pulled away from the officers. The officers pulled § 87(2)(b) out of the vestibule and in front of the club into views #1 and #2.

As soon as § 87(2)(b) was pulled outside of the club, a group of about 30 people exited the club. At 13:10, PO McDougall and PO Mauro brought § 87(2)(b) to the ground. Sgt. Vasquez exited the club right behind them. Many of the civilians who exited the club at the same time attempted to approach § 87(2)(b) while he was on the ground and several of the officers had to block the civilians and conduct crowd control.

When § 87(2)(b) landed on the ground, he turned himself over so his back was facing the ground. Sgt. Vasquez approached § 87(2)(b) pushed away a civilian who appeared to be approaching § 87(2)(b) and then proceeded to punch § 87(2)(b) three times in the torso at the 13:12 mark. Sgt. Vasquez then turned § 87(2)(b) around onto his stomach. The view of § 87(2)(b) becomes blocked by other officers doing crowd control. Sgt. Vasquez removed his pepper spray off of his belt, and reached down toward § 87(2)(b)'s head with the pepper spray. Sgt. Vasquez then returns the canister of pepper spray to his belt and a nearby officer, who was identified by the investigation as PO Chiarlitti, who was attempting to hold down § 87(2)(b)'s legs, handed Sgt. Vasquez a set of handcuffs. Sgt. Vasquez then reached down, slightly out of view of the camera, and appeared to handcuff § 87(2)(b).

§ 87(2)(b) was never struck with an asp by any officer. Once § 87(2)(b) was handcuffed, Sgt. Vasquez stood up and left the view of the camera. § 87(2)(b) remained on the ground with PO Chiarlitti standing nearby him. Many civilians continued to exit the club and they had to be pushed back by officers. At 24:30, § 87(2)(b) was lifted off of the ground and taken away from the location.

**Video 1** (§ 87(2)(b)) – This video was provided by § 87(2)(b). The view of the video begins from in front of the § 87(2)(b) club. The recorder of the video crossed the street and turned the corner of a parked car. § 87(2)(b) was on her knees and was speaking with a female police officer. PO Chau was standing to the left of § 87(2)(b). § 87(2)(b) as she was yelling at a female police officer, stood up at the 1:30 mark. As § 87(2)(b) stood up, § 87(2)(b) was on the ground, on her back, but no officers are physically or verbally interacting with her.

As § 87(2)(b) is yelling, § 87(2)(b) pulled on her right arm. PO Chau then grabbed § 87(2)(b) by the left arm and pushed her against the hood of a parked vehicle. § 87(2)(b) continued to yell and tried to turn her body toward PO Chau as PO Chau, with the assistance of other officers, pulled her hands behind her back and handcuffed her. There were many people around the officers as this was happening and people stating, “fuck the police.”

At 1:57, a loud commotion was heard and the focus of the camera moved away from § 87(2)(b) to an incident that was occurring further down the street, on the same sidewalk. § 87(2)(b) was on the sidewalk, next to a marked police vehicle, swinging his arms haphazardly in a punching motion. At 2:06, § 87(2)(b) grabbed an officer with his right hand around the back of the officers neck, and punched the officer in the face with his right hand. Other officers grabbed § 87(2)(b) and § 87(2)(b) lost his grip with his right hand and the officer who he punched pulled away. § 87(2)(b) then swung with his right hand, and missed the officer's face.

§ 87(2)(b) then swung with his left hand at a second officer, PO Barry, who was attempting to grab § 87(2)(b) and made a direct hit with PO Barry's face at the 2:08 minute mark. While this happened, § 87(2)(b) is pushed into the crowd of officers attempting to apprehend § 87(2)(b). A plainclothes police officer grabbed § 87(2)(b) by the torso and pulled her away from what was happening. Sgt. Vasquez, while holding his asp in his right hand, struck § 87(2)(b) once with the asp in a downward motion. It is unclear from the video where on his body he connected with the asp blow, but it did connect with the upper portion of his body (either the head, neck, or shoulder.) Officers then pushed § 87(2)(b) against the vehicle and he went down to the ground where he could no

longer be seen. Numerous officers had asps out and they swung their asps in the direction of § 87(2)(b) but it is unclear if or where the asp blows made impact with § 87(2)(b). At the 2:17 mark, § 87(2)(b) approached the group again, this time near the rear of the police vehicle, and she appeared to be picking up an object off the ground. The focus of the camera then moved away from what was happening with § 87(2)(b) and § 87(2)(b).

**Video 2** (§ 87(2)(b)) – This video was provided by § 87(2)(b). This video picks up immediately after where Video 1 ended. § 87(2)(b) is seen pushed up against a gate on the side of a building and brought to the ground where officers appear to be placing her in handcuffs. § 87(2)(b) cannot be seen because officers are blocking the view. No further force is observed.

**Video 3** (§ 87(2)(b)) – This video was downloaded from a YouTube post. The video begins with a focus on the front of the § 87(2)(b) club and Sgt. Vasquez bent over § 87(2)(b) who is on the ground. The camera focus shifted at :52 to PO Chau, who was on the opposite side of the street. PO Chau and a female officer were bent over and appear to be speaking with § 87(2)(b) who was on the ground. § 87(2)(b) stood up and was saying something, that cannot be heard, to the female officer. The focus of the camera then moved away from the encounter.

At 1:22, the camera focus moved back to § 87(2)(b) who was face first against a marked police vehicle. PO Chau and the female officer were standing behind her attempting to pull her hands behind her back and place her into handcuffs. § 87(2)(b) turned her head toward the officers and stated, "Get off of my mother." At 1:36, § 87(2)(b) was seen standing up in the background and appears to speak with the officers.

The camera focus abruptly shifted to an incident that occurred on the same sidewalk further down the block. At 1:44, § 87(2)(b) was fighting with a group of officers. At 1:46, § 87(2)(b) swings his right fist and strikes an officer in the face. The officer moves back and § 87(2)(b) wildly swings his arms around at other officers. Officers attempted to grab § 87(2)(b) and given the grainy quality of the video and the amount of people around, most of the specific actions of § 87(2)(b) and the officers cannot be seen. At 2:00, from what appears to be an edit in the video, the video jumps forward and § 87(2)(b) was on the ground being handcuffed.

**Video 4** (§ 87(2)(b)) – This video was downloaded from a YouTube post. At :58 § 87(2)(b) and § 87(2)(b) were standing on the street facing each other, in between two vehicles. One vehicle was a marked RMP and the second vehicle cannot be clearly seen from the video. § 87(2)(b) and § 87(2)(b) were standing in front of the marked RMP and were facing each other. § 87(2)(b) raised one of his hands into the air, then PO Diaz can be seen coming from behind § 87(2)(b). § 87(2)(b) then started to turn around toward PO Diaz and the focus of the camera changed positions and § 87(2)(b) and § 87(2)(b) cannot be seen.

At 1:04, the video focused on Sgt. Vasquez who was walking on the sidewalk, away from the position of where § 87(2)(b) and PO Diaz were located. Sgt. Vasquez stated, "Get off the block." At 1:08, the focus of the camera shifted back to § 87(2)(b) who was on the sidewalk facing PO Diaz. PO Diaz then stated, "Are you fucking stupid. Get the fuck out of my face. Let's go. I told you to go." § 87(2)(b) walked backwards with both arms out from his sides, in the direction where Sgt. Vasquez was located.

Sgt. Vasquez turned around and at 1:10, pushed § 87(2)(b) in the back as § 87(2)(b) was walking backwards. § 87(2)(b) turned around to face Sgt. Vasquez and Sgt. Vasquez grabbed § 87(2)(b) with his left arm in § 87(2)(b)'s chest area. § 87(2)(b) grabbed Sgt. Vasquez's left arm with his right arm. Sgt. Vasquez then struck § 87(2)(b) once in the left torso with his asp which Sgt. Vasquez held in his right hand. § 87(2)(b) then pushed Sgt. Vasquez with her body in what appeared to be an attempt to get between § 87(2)(b) and Sgt. Vasquez. At 1:15, § 87(2)(b) swung his left arm at Sgt. Vasquez. It is unclear from the video whether or not § 87(2)(b) connected with Sgt. Vasquez. PO Diaz was standing to the right of § 87(2)(b) when this occurred with § 87(2)(b) who was still attempting to push in between § 87(2)(b) and Sgt. Vasquez. PO Diaz's actions cannot be seen.

After § 87(2)(b) swung at Sgt. Vasquez, Sgt. Vasquez proceeded to strike § 87(2)(b) several five additional times while § 87(2)(b) swings his arms and other officers try and grab him. It is unclear from the video where specifically Sgt. Vasquez struck § 87(2)(b) with the asp or where specifically the officers were grabbing him due to the video quality. The focus of the video then pulled away from what was happening and returned at the 1:23 mark to show § 87(2)(b) grabbing an officer by the head with his right hand. The officer then pulls away and § 87(2)(b) swings with his left hand, striking a different officer, PO Barry, in the face. The video then abruptly ends.

**Video 5** (§ 87(2)(b)) - This video was downloaded from a YouTube post. At 2:03 the camera focused on § 87(2)(b) who was already in handcuffs and on the ground as an officer stood next to him. At 2:39, PO Diaz, § 87(2)(b) and § 87(2)(b) were standing in front of a marked police vehicle. § 87(2)(b) had his back toward PO Diaz and § 87(2)(b) was facing PO Diaz, with § 87(2)(b) standing in between them. PO Diaz's hands were moving in a pushing motion toward § 87(2)(b)'s back. The camera moved and a marked police vehicle blocked the view of the interaction. At 2:42, § 87(2)(b) and PO Diaz come back into view of the camera and were on the sidewalk. The focus of the camera moved away from the incident again, but the verbal interaction can still be heard. § 87(2)(b) stated, "What are you doing?" An unidentified male voice then yelled, "Get off the block." PO Diaz stated, "Are you stupid?" § 87(2)(b) responded, "I didn't do nothing." PO Diaz then stated, "Get the fuck out of my face. Let's go. I told you to move."

At 2:48, the camera focus moved back to the interaction. Sgt. Vasquez was seen holding § 87(2)(b) by the front of his shirt with his left hand. § 87(2)(b) grabbed Sgt. Vasquez's left arm with his right hand and Sgt. Vasquez stated, "Cuff this motherfucker." Sgt. Vasquez, while holding an asp with his right hand, struck § 87(2)(b) once in his left torso with the asp. § 87(2)(b) was directly to the left of Sgt. Vasquez and was pushing in between Sgt. Vasquez and § 87(2)(b). § 87(2)(b) put his left hand straight out from his side. Numerous other officers approached § 87(2)(b) and tried to grab him as he started wildly swinging his arms and fighting with the officers. Sgt. Vasquez stuck § 87(2)(b) approximately seven times with the asp. Because an unidentified individual stepped in front of the camera, the location of impact of the first two strikes cannot be seen. The remaining five strikes, at 2:56, impact § 87(2)(b)'s back. At 3:00, § 87(2)(b) put his right arm around an unidentified officer's neck and the officer swings two punches at § 87(2)(b) with his right hand, but the video does not show whether or not this officer made contact with § 87(2)(b). At 3:03, § 87(2)(b) with his right hand, threw a punch, hitting another officer directly in the face. Numerous officers can be seen swinging asps and fists at § 87(2)(b) but the video does not show where on § 87(2)(b)'s body these blows impacted because there were so many officers around § 87(2)(b) at this point. § 87(2)(b) continued to fight with the officers and it did not appear as though § 87(2)(b) was taken to the ground until the 3:15 minute mark. However, given the amount of people around § 87(2)(b) and the angle of the camera the specific actions of the officers and § 87(2)(b) at this point are unclear.

The focus of the camera then shifted away from the location. At the 4:24 minute mark of the video, § 87(2)(b) was in the background having an interaction with officers. The camera zoomed in and an unidentified male officer pushed § 87(2)(b) backward once in the chest. § 87(2)(b) put both hands out to his sides while an unidentified civilian, who was standing behind § 87(2)(b), grabbed him by the torso and was trying to pull § 87(2)(b) back from the officer. The officer then struck § 87(2)(b) with his asp, which the officer was holding in his left hand, one time on § 87(2)(b)'s right thigh. An unidentified civilian then stepped in front of § 87(2)(b) coming in between him and the officer. § 87(2)(b) then moved back and the officer moved away from the encounter.

**Video 6** (§ 87(2)(b)) – This video was provided by § 87(2)(b). Sgt. Vasquez walked down the sidewalk with a group of other officers. Sgt. Vasquez stated, "I swear to God, get the fuck out of here. This is your last fucking warning. Let's go. I will lock all of you up. Let's go." Sgt. Vasquez does not appear to be making these comments to any specific person, but there are several civilians on the sidewalk who are walking

in front of him, in the same direction of Sgt. Vasquez, as Sgt. Vasquez made this statement.

**Video 7** (§ 87(2)(b)) - This video was downloaded from a YouTube post. This video was taken from an apartment, several stories above § 87(2)(b) showing a downward view of the street. At :07, the video, focused directly below the location where the video is being recorded, came into focus and § 87(2)(b) is seen walking through a mound of garbage bags which were piled on the sidewalk. § 87(2)(b) was walking away from a large group of police officers who were walking down the sidewalk. § 87(2)(b) quickly went out of view of the camera and the camera focused out to take in a wider view of the street which shows numerous civilians and police officers in the area.

At :56, the camera zoomed into a location, further down § 87(2)(b) and showed § 87(2)(b) interacting with unidentified uniformed police officers. The officers pushed § 87(2)(b) back first against a marked police vehicle. An officer grabbed § 87(2)(b) by the back of his shirt and attempted to push him face first against a different marked police vehicle, however there is another police officer in between § 87(2)(b) and the police vehicle. As § 87(2)(b) went toward the police vehicle, he came into contact with this police officer, face first, at the 1:02 mark. § 87(2)(b) grabbed onto this officer's right arm. The officer, with his asp in his right hand, struck § 87(2)(b) twice in the right arm with an asp. After the first asp strike but before the second, a different officer attempted to push § 87(2)(b) backward and away from the officer who was swinging his asp. After the second asp strike, § 87(2)(b) stopped and put both hands out toward his sides. The officer then with his right hand, pushed § 87(2)(b) once in the chest backward. An unidentified civilian then grabbed § 87(2)(b) from behind and pulled him away from the officer and out of view of the camera.

**Video 8** (§ 87(2)(b)) - This video was downloaded from a YouTube post. The video begins with numerous police officers walking down the sidewalk telling numerous civilians to get "off the block." At the 2:19 mark, in the background the unidentified officer pushed § 87(2)(b) once in the chest backward as § 87(2)(b) stood with his hands out to his sides. The camera then shifted away from the position and the remainder of the interaction cannot be seen.

### **Arrests for Incident and Disposition**

All of the arrests in connection to this incident, which include the arrests of § 87(2)(b) and § 87(2)(b) have been sealed.

### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) have filed a Notice of Claim with the City of New York on September 26, 2011 claiming physical and emotional injuries, excessive force, and unjust confinement. All three are seeking one million dollars in redress and five million dollars in punitive damages. 50H hearings were held on § 87(2)(b) for § 87(2)(b) and § 87(2)(b) 50H hearings were held on § 87(2)(b) for § 87(2)(b) Requests made to § 87(2)(b) for copies of these hearings and/or written authorization for the CCRB to obtain them were made via email, § 87(2)(b) preferred method of contact, but the CCRB received no response.

### **Civilians Criminal History (encl. G 66-122)**

- As of September 4, 2012, the Office of Court Administration revealed no criminal court convictions for § 87(2)(b) and § 87(2)(b) in the City of New York in the past ten years.
- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

§ 87(2)(b)

• § 87(2)(b)

### **Civilians CCRB History**

This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. B 7-15).

### **Subject Officers CCRB History**

- PO Mauro has been a member of service for three years and there has been no substantiated CCRB allegations against him (encl. B 1).
- PO Barry has been a member of service for four years and there has been no substantiated CCRB allegations against him (encl. B 2).
- PO Chau and PO Diaz have been a members of service for six years and there has been no substantiated CCRB allegations against them (encl. B 3, 6).
- Sgt. Vasquez has been a member of service for nine years and there are three substantiated CCRB allegations against him (encl. B 4-5).
  - In CCRB case 201105740, the CCRB determined that Sgt. Vasquez improperly entered and searched a location, threatened to damage a civilian's property, and spoke rudely to an individual. The Board recommended charges for all three allegations. The case is still pending action from the NYPD.

### **Conclusion**

### **Identification of Subject Officers**

- PO Mauro, PO Diaz, PO Chau, PO Barry, and Sgt. Vasquez acknowledged their roles in this incident.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pled**

§ 87(2)(b) stated that he asked PO Chau for his shield number, but he was arrested before he obtained a response. § 87(2)(b) made this request during a stressful street encounter where there were numerous civilians interacting with one another. Given the crowd situation, PO Chau was not obligated to stop what he was doing to provide this information. Therefore, this allegation is not pled.



§ 87(2)(b) and § 87(2)(b) stated that they were pushed by PO Chau using two hands outward from his chest which caused § 87(2)(b) to fall on top of § 87(2)(b). Given the crowd situation in which officers were conducting crowd control and attempting to get people off of the street, the push as alleged is not excessive and is not pled as an allegation.

§ 87(2)(b) alleged that officers punched and kicked both § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) never alleged that they were punched or kicked, therefore this allegation is not pled.

§ 87(2)(b) stated that he was punched and pushed against a police vehicle after he was in handcuffs. § 87(2)(b) was not injured. By his own account, § 87(2)(b) while in handcuffs, attempted to interfere in the arrest of § 87(2)(b) by putting himself in between her and the officers. Given this, the force he described was minimal and used to remove him from the situation. Therefore, a force allegation is not pled.

§ 87(2)(b) stated that he overheard officers at the stationhouse asking each other, “Did you fuck them up? Did you smash cell phones?” This was an aside conversation that § 87(2)(b) overheard and was not directed at him or any other civilians. Therefore, this allegation is not pled.

§ 87(2)(b) stated that an officer, in response to learning that § 87(2)(b) had her period, said “Let the bitch bleed out.” § 87(2)(b) never made this allegation, nor did any other civilian corroborate it. Therefore, this allegation is not pled.

§ 87(2)(b) was taken to the ground and placed under arrest. § 87(2)(b) admittedly interfered with § 87(2)(b)'s arrest, which is confirmed by the video. This force was minimal and used to arrest her. Therefore, the allegation is not pled.

**Allegation A - Discourtesy: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez spoke rudely to § 87(2)(b) and individuals.**

**Allegation F - Discourtesy: In front of § 87(2)(b) in Manhattan, officers spoke rudely to individuals.**

**Allegation G - Discourtesy: In front of § 87(2)(b) in Manhattan, PO Philip Chau spoke rudely to § 87(2)(b).**

**Allegation K: - Discourtesy: In front of § 87(2)(b) in Manhattan, PO Lauren Diaz spoke rudely to § 87(2)(b).**

§ 87(2)(b) stated that he heard Sgt. Vasquez tell people who were leaving the club to “Get the fuck out of here.” § 87(2)(b) alleged that PO Chau told her to “Get the fuck off the block” and “move the fuck back.” § 87(2)(b) also stated that she heard officers state, “move the fuck out of the way.” § 87(2)(b) stated that before arresting him, PO Diaz said, “Get the fuck out of my face,” and Sgt. Vasquez said, “Arrest that motherfucker.”

The video evidence confirmed that Sgt. Vasquez and PO Diaz cursed during the incident. Sgt. Vasquez explained that this type of language was necessary given the crowd situation and it was used to gain compliance. Sgt. Vasquez did deny saying “arrest that motherfucker” when speaking about § 87(2)(b) but Video 5 corroborates § 87(2)(b)'s allegation because Sgt. Vasquez can be heard stating, “cuff that motherfucker.” The video evidence also depicts PO Diaz stating, “Are you fucking stupid. Get the fuck out of my face. Let’s go. I told you to move.” PO Diaz explained her choice of words in that § 87(2)(b) after being told to move, turned to face her, and she made the statement as an alarm to other officers for help, which it ultimately achieved. PO Chau denied cursing during the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

NYPD v. Woods (DCT 78518/03), NYPD v. White (DCT 78667/03), and NYPD v. Court (DCT 79627/04, all found that during stressful street encounters or crowd control situations, the use of obscene language did not constitute misconduct (encl. A 1-32).

§ 87(2)(g)

**Allegation B - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez used physical force against § 87(2)(b)**

**Allegation C - Force: In front of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that when he was being removed from the club, Sgt. Vasquez and other officers punched him multiple times in the face, brought him to the ground in front of the club where he was punched and struck in the torso with asps. The club video shows that Sgt. Vasquez and other officers did in fact use force, but not the force that § 87(2)(b) alleged. The video shows that § 87(2)(b) was pulled into the vestibule of the club by officers who tried to push him up against the wall. § 87(2)(b) pulled away from the wall and resisted arrest. PO Chau stated that he was struck in the face by § 87(2)(b) breaking his tooth, but this cannot be clearly seen from the video. The video shows § 87(2)(b) being pulled out of the club and brought to the ground in front of the club where Sgt. Vasquez does punch him three times in the torso before he is able to turn § 87(2)(b) around onto his stomach. Neither Sgt. Vasquez, nor any other officer, punched § 87(2)(b) in the face as he alleged.

Patrol Guide Procedure 203-11 states that officers may use the amount of force necessary to overcome resistance and effect an arrest (encl. A 33-34).

§ 87(2)(g)

**Allegation D - Force: In front of § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with their asps.**

§ 87(2)(b) alleged that several officers struck him with asps. § 87(2)(b) and the independent witness, § 87(2)(b) confirmed that § 87(2)(b) was struck with asps. All the officers that were interviewed denied that this occurred and the video evidence confirms the officers' statements that § 87(2)(b) was never struck with an asp.

§ 87(2)(g)

**Allegation E - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vazquez used pepper spray against § 87(2)(b)**

§ 87(2)(b) alleged that Sgt. Vasquez pepper sprayed him after he was on the ground and in handcuffs. Sgt. Vasquez confirmed that he did in fact pepper spray § 87(2)(b) but did so while he was on the ground, still resisting arrest, and not while he was in handcuffs. The video evidence does support Sgt. Vasquez's statement as it shows that Sgt. Vasquez reaches down and pepper sprays § 87(2)(b) while he was resisting. Another officer then hands Sgt. Vasquez his handcuffs, at which time Sgt. Vasquez then handcuffs § 87(2)(b)

Patrol Guide Section 212-95 states that an officer may use pepper spray to effect the arrest of a resisting suspect (encl. A 35-38).

§ 87(2)(g)



statement, § 87(2)(b) turned around to face PO Diaz after she pushed him to try and get him to move off the block. When he did this, PO Diaz pushed him backwards toward where Sgt. Vasquez was located. § 87(2)(b) alleged that Sgt. Vasquez then punched him in the face and other officers approached, punching him, kicking him, and hitting him with batons.

The video evidence shows that Sgt. Vasquez did not punch § 87(2)(b) as he alleged. After § 87(2)(b) was pushed by PO Diaz, Sgt. Vasquez grabbed him by the front of the shirt. § 87(2)(b) then grabbed onto Sgt. Vasquez's arm, at which time, Sgt. Vasquez struck him once with an asp in his torso. § 87(2)(b) swung his hands in the air, and started to fight with the officers. At which point Sgt. Vasquez struck § 87(2)(b) five additional times in the back with the asp. The video shows that § 87(2)(b) then wildly resisted arrest, punching PO Barry in the face, which broke his nose, and punching another officer in the face. The video does show that numerous officers struck § 87(2)(b) with asps, and PO Mauro admitted that he could have kicked § 87(2)(b) during the process; however, all of this force occurred while § 87(2)(b) was violently resisting and swinging at officers.

§ 87(2)(b) received substantial injuries from the encounter, which included abrasions to his neck, face, chest and shoulder, a laceration to the head requiring staples, and had his earring pulled out of his right ear lobe. § 87(2)(b) stated that he blacked out during the incident and could not explain many actions of the officers but stated that he did recall being kicked three times in the face, between his nose and upper lip. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Officers also sustained substantial injuries from this encounter. PO Barry sustained a broken nose from being punched by § 87(2)(b) which is shown on the video. PO Diaz sustained a contusion to the head during the encounter, but did not specifically know how it occurred. PO Szeto sustained an abrasion on the forehead and a laceration to the back of his head and Sgt. Vasquez had an abrasion to his neck.

Patrol Guide Procedure 203-11 states that officers may use the amount of force necessary to overcome resistance and effect an arrest (encl. E 33-34).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation N - Force: In front of § 87(2)(b) in Manhattan, Sgt. Mark Vasquez struck § 87(2)(b) with an asp.**

§ 87(2)(b) alleged that an officer struck him in the head with an asp, causing a laceration to the back of his head which required staples to mend. § 87(2)(b) stated that he blacked out during the encounter and could not provide any details of this allegation. Video 1 shows Sgt. Vasquez strike § 87(2)(b) with an asp in the upper part of the body, but it is unclear from the footage where he specifically impacted § 87(2)(b). Sgt. Vasquez viewed the video during his CCRB interview and stated that he believed that he struck § 87(2)(b) on the shoulder and not the head.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation T - Force: In front of § 87(2)(b) in Manhattan, an officer struck § 87(2)(b) with his asp.**

It is undisputed that § 87(2)(b) was struck with an asp. The video evidence shows that as officer attempted to push § 87(2)(b) off the block, he came into contact with a uniformed police officer, wedging that officer in between himself and a marked police vehicle. § 87(2)(b) grabbed onto this officer at which time the officer pushed § 87(2)(b) back and struck him three times with an asp, twice in the arms and once in the thigh, until § 87(2)(b) backed off and left the location.

Patrol Guide Procedure 203-11 states that officers may use the amount of force necessary to overcome resistance and effect an arrest (encl. E 33-34).

§ 87(2)(g)

**Allegation U - Abuse of Authority: At the 7<sup>th</sup> Precinct stationhouse, officers threatened § 87(2)(b) with the use of force.**

While § 87(2)(b) was inside the cells, he alleged that officers told him that he was “fucking lucky” they were not working when they incident occurred or they would have “beat the shit out of him.” All of the officers that were interviewed in this case denied that this ever occurred. The cell attendant, Ms. Ngbesso, did not recall this exchange and the only independent witness the investigation was able to contact from the cell roster, § 87(2)(b) did not remember it either. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Team: \_\_\_\_1\_\_\_\_

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Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date